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MASSACHUSETTS ANNUAL VICTIM RIGHTS WEEK CONFERENCE

The Road To Victim Justice: A Legislative Agenda

April 28, 1992
8:30 A.M. - 1:00 P.M.
Gardner Auditorium, State House, Boston

Sponsored By:

The Massachusetts Victim and Witness Assistance Board
The Massachusetts Office for Victim Assistance
Attorney General Scott Harshbarger

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MOVA/VWAB
100 Cambridge Street, ROOM 1104
Boston, MA 02202
(617) 727-5200

THE ROAD TO VICTIM JUSTICE: A LEGISLATIVE AGENDA

Massachusetts Annual Victim Rights Conference
Gardner Auditorium, State House, Boston

Tuesday, April 28, 1992

8:30 - 9:00 **Registration and Refreshments**

9:00 - 11:00 **Plenary Session -- Gardner Auditorium**

9:00 **Welcoming Address:** Attorney General Scott Harshbarger

9:30 **Annual Awards Presentation**

Legislative:	Senator James Jajuga
	Representative Barbara Gray
Public Policy:	Lorraine Kowal
	Mass. Committee on Criminal Justice
Media:	Bella English
	Boston Globe
Special Recognition:	The DiMaiti Family
	Carol DiMaiti Stuart Foundation

10:00 **Keynote Address:** Nancy Ziegenmeyer, author of Taking Back My Life

10:45 **Proclamation and Remarks:** Governor William F. Weld

11:00 - 11:15 **Break**

11:15 - 1:00 **Concurrent Legislative Workshops**

A. Childhood Sexual Assault: Civil Statute of Limitations

Moderator: Kathy Alexander, Director, Victim Witness Program
Northwestern District Attorney's Office

Representative Barbara Gray, Legislative Sponsor
Loretta Kowal, LICSW, Independent Clinical Consultant
Gail MacDonough, Director, Victim Advocacy Network
Andrew C. Meyer, Jr., Private Attorney
Jacqui Vozzella, Member, Victim Witness Assistance Board

Location: 21st Floor, McCormack Building (1 Ashburton Place)
Conference Room 1

11:15 - 1:00 Concurrent Legislative Workshops (Continued)

B. Domestic Violence: Victim Stalking, Bail Reform and Related Legislation

Moderator: Diane Juliar, Director of Policy and Training
Attorney General's Office

Senator James Jajuga, Legislative Sponsor
District Attorney Bill O'Malley, Plymouth County
Robert Cordy, Governor's Legal Counsel
Velvet Butler, Family Member, Domestic Violence Homicide
Sgt. John Christiansen, Somerville Police Department
Brenda Lopez, Coordinator, YWCA ARCH Program
Joan Stiles, Coordinator, Mass. Coalition of Battered Women Service Groups
Catherine E. Sullivan, Assistant District Attorney, Middlesex County

Location: Gardner Auditorium

C. Drunk Driving: Raising Standards and Penalties

Moderator: Ben Shapiro, Executive Director
Mass. District Attorneys Association

Representative Patricia Jehlen, Legislative Sponsor
District Attorney Tom Reilly, Middlesex County
Kay Dudley, State Chair, Mothers Against Drunk Driving
Jack Flynn, Legislative Director, Exec. Office of Public Safety
Ralph Hingson, S.c.D., Boston University School of Public Health
Gerald St. Hilaire, Chief Legal Counsel, Mass. Registry of Motor Vehicles

Location: 21st Floor, McCormack Building (1 Ashburton Place)
Conference Room 4

D. Rape and Sexual Assault: Responding to the Stockhammer Decision and the Rape Reporting Law

Moderator: Jane Tewksbury, Bureau Chief
Family and Community Crimes Division, Attorney General's Office

Judge Peter Lauriat , Associate Justice , Middlesex Superior Court
Betty Eng, Assistant Attorney General, Attorney General's Office
Veronica Ryback, Director, Rape Intervention Program, Beth Israel Hospital
Nathalie Saltikof, Legislative Chair, Mass. Coalition of Rape Crisis Service Centers
Geline W. Williams, Assistant District Attorney, Plymouth County

Location: 21st Floor, McCormack Building (1 Ashburton Place)
Conference Room 2

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11:15 - 1:00 Concurrent Legislative Workshops (Continued)

E. Violence Prevention: Community Based Intervention, An Action Plan

Moderator: Vaughn Simkins, Coordinator
Violence Prevention Project, Dept. of Health and Hospitals

Representative Barbara Hildt, Legislative Sponsor
Deborah Cox, Coalition Coordinator, Boston Violence Prevention Project
Carol Downs, Events Coordinator , Citizens For Safety, Boston Foundation
Pam Ellis, Director, Mass. Student Alliance Against Racism and Violence, Norfolk County District Attorney's Office
Ana Rodriguez, Coordinator, Lawrence Violence Prevention Project
Riche Zamor, Statewide Facilitator, Unity Project, The Medical Foundation

Location: 21st Floor, McCormack Building (1 Ashburton Place)
Conference Room 3

MASSACHUSETTS ANNUAL VICTIM RIGHTS WEEK CONFERENCE

List of Sponsors

Massachusetts Victim and Witness Assistance B

Attorney General Scott Harshbarger, Chair
William O'Malley, District Attorney, Plymouth Co
Thomas Reilly, District Attorney, Middlesex Co
Jacqui Vozzella, Victim/Citizen Member

Massachusetts Office for Victim Assistance

Heidi Urich, Executive Director
Randolph S. Kravette, Grant/Finance Manager
Janet O'Dea, Office Manager
Judy Norton, Victim Advocate

Offfice of Attorney General Scott Harshbarger
Family and Community Crimes Division

Jane E. Tewksbury, Bureau Chief

MOVA/VWAB
100 Cambridge Street, ROOM 1104
Boston, MA 02202
(617) 727-5200

MASSACHUSETTS ANNUAL VICTIM RIGHTS WEEK CONFERENCE

List of Co-Sponsors

Governor William F. Weld
Mass. District Attorneys Association
Mass. Coalition of Battered Women Service Groups
Mass. Coalition of Rape Crisis Service Centers
Mass. Mothers Against Drunk Driving (MADD)
Mass. Victim Witness Program Directors Association
Adolescent Violence Prevention Project
Joey Fournier Victim Service
Parents of Murdered Children (POMC)
People of Color Against Homicide
Victim Advocacy Network
Victims for Victims, L.O.V.E.
Violence Prevention Project
VOCA Coalition

Special Displays by

Plymouth and Brockton Clothesline Project
Mothers Against Drunk Driving Victim Quilt

Special Thanks to

Victim Advocacy Network and Mothers Against Drunk Driving
For the coffee and pastry

The Commonwealth of Massachusetts

A Proclamation

By His Excellency

GOVERNOR WILLIAM F. WELD

1992

WHEREAS: Criminal violence touches over 34 million Americans each year; and

WHEREAS: The victims and survivors of crime face financial loss, physical injury, and emotional trauma both at the hands of the criminal and in the aftermath of the criminal justice process; and

WHEREAS: Family member and friends of victims and survivors of crime also suffer from the trauma of victimization; and

WHEREAS: Many victims are still too often invisible in the traditional criminal justice system; and

WHEREAS: Certain types of victimization, such as sexual assault, family violence, and sexual harassment, remain unreported or unadjudicated because their victims are often disbelieved and stigmatized; and

WHEREAS: All citizens of the United States deserve to be treated with dignity, compassion, and justice in times of distress; and such treatment has not always been afforded to all crime victims, witnesses, and their loved ones or survivors; and

WHEREAS: Thousands of our fellow citizens, in their work and their volunteer activities, are devoting themselves to ensuring that rights and services are established for all victims and witnesses throughout the Commonwealth;

NOW, THEREFORE, I, WILLIAM F. WELD, Governor of the Commonwealth of Massachusetts, do hereby proclaim April 26th through May 2nd, 1992 as

VICTIM RIGHTS WEEK

and urge the citizens of the Commonwealth to take cognizance of this event and participate fittingly in its observance.

Given at the Executive Chamber in Boston, this tenth day of April, in the year one thousand nine hundred and ninety-two, and in the year of the Independence of the United States of America, the two hundred and sixteenth.

W. William F. Weld

WILLIAM F. WELD

By His Excellency the Governor

Michael J. Connolly

MICHAEL J. CONNOLLY
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

The Massachusetts Office for Victim Assistance Presents:

CALENDAR OF EVENTS - 1992 VICTIM RIGHTS WEEK
APRIL 26 - MAY 2

EVENT	DATE/TIME LOCATION	CONTACT
Annual Massachusetts Victim Rights Week Conference **The Road to Victim Justice: A Legislative Agenda** Sponsored by the Massachusetts Office for Victim Assistance, the Victim and Witness Assistance Board, and the Attorney General's Office, with fourteen co-sponsoring organizations	April 28, 1992 8:30 AM - 1:00PM Gardner Auditorium State House **Boston**	Judy Norton MOVA (617)727-5200
4th Annual Week of Awareness: Celebrating Diversity/Confronting Violence Opening Ceremony/ Press conference	April 22-May 3, 1992 April 22, 1992 11:30 AM - 12:00 PM **Greenfield** Community College C 129	Mary Kociela NELCWIT (413)772-0871
Making Peace After Victimization Forum of clergy and victims discussing issue of making spiritual peace as a victim of violence	April 23, 1992 7:30 PM Parmenter Health Center, **Wayland**	Gail S. MacDonough Victim Advocacy Network, Inc. (508)655-1998
Oppression as a Root of Violence Learn how racism, sexism, classism and homophobia hurt us all	April 23, 1992 7:00 PM - 9:00 PM Sunderland Elementary School Cafeteria **Sunderland**	Cate Woolner Janet Scott-Harris Franklin Mediation Service
Victims Vigil To remember homicide victims and their survivors	April 25, 1992 3:00 PM Cliftondale United Methodist Church 493 Lincoln Avenue **Saugus**	Phyllis Hotchkiss North Shore Chapter Parents of Murdered Children (617)233-8754
Walk-A-Thon '92: Stopping Domestic Violence, Step By Step Tenth annual 10K (6 miles) walk-a-thon All sponsorship proceeds to benefit shelter program	April 26, 1992 11:30 AM Registration **Holyoke** High School	Kathleen Herd Womanshelter/ Companeras (413)536-5407

The Massachusetts Office for Victim Assistance Presents:

CALENDAR OF EVENTS - 1992 VICTIM RIGHTS WEEK
APRIL 26 - MAY 2

EVENT	DATE/TIME LOCATION	CONTACT
Open House for Victims and Their Families Open house - free brochures, books, info., refreshments Meet other victims	April 26, 1992 2:00 PM - 4:00 PM MADD office 399 Main Street **Dalton**	Donna Kelley MADD - Berkshire County (413)684-3133
Walk for Women's Lives Walk and rally	April 26, 1992 1:00 PM **Concord**	Lisa Brem Rape Crisis Services of Greater Lowell (508)452-7721
Our Loss Cries for a Safer Tomorrow The Memorial Victims Quilts crafted in memory of loved ones killed or injured in alcohol related crashes will be displayed	April 27, 1992 10:30 AM - 2:30 MADD Hampden County Chap. Office 154 Grove Street **Chicopee**	Laura Finn, President MADD Hampden County Chapter (413)592-9953
Memorial Tree Planting In memory of Bryan Melewski who was killed while riding his skateboard by a drunk driver	April 27, 1992 9:45 AM Assabet Valley Regional Vocational High School **Marlboro**	Janet Locke, Victim Advocate (508)624-6233
For the Children - by Paula S. MacIan A presentation and poetry reading on the issues of incest and child sexual abuse	April 28, 1992 6:30 PM - 8:30 PM Room 805 - 809 U. Mass. Campus Center, **Amherst**	Debra Levy Everywoman's Center Counselor/Advocate Program (413)545-3474
The All Time Ism: Diversity & Violence as it Relates to Sexual Harassment	April 28, 1992 1:00 - 4:00 PM **Greenfield** Community College	Herb Hentz
Memorial Tree Planting **In memory of Vincent "Buddy" Lestan**	April 29, 1992 2:00 PM The Historic Fisher-Richardson House Willow Street **Mansfield**	Linda Pacheco MADD Bristol County Chapter (508)673-6233

The Massachusetts Office for Victim Assistance Presents:

CALENDAR OF EVENTS - 1992 VICTIM RIGHTS WEEK
APRIL 26 - MAY 2

EVENT	DATE/TIME LOCATION	CONTACT
Rape and Racism Workshop	April 29, 1992 7:30 PM - 9:30 PM Greenfield Public Library Meeting Room, 402 Main St. **Greenfield**	The Educator/Advocate Program of Everywoman's Center (413)545-0883
Take Back the Night Rally and March Protest of violence against women with speeches and music For women only	April 30, 1992 7:30 PM Berkshire County Courthouse **Pittsfield**	Joan McNamara Rape Crisis Center (413)442-6708
5th Annual Take Back the Night/Celebrate Our Lives March Rally and march focusing on violence against women which will include speakers, music, and a candlelight vigil	April 30, 1992 7:00 PM **Greenfield** Town Common	Mary Kociela NELCWIT (413)772-0871
Speak Out Against Sexual Assault A dramatic reading of survivors' experiences and testimonies	April 30, 1992 12:00 PM UMass Student Union **Amherst**	Veronica Frenkel Everywoman's Center, Educator/Advocate Program (413)545-3474
Remembering Our Loved Ones Parents, survivors, and friends come together to share the happy moments and reflect on the good times they had with there loved ones	April 30, 1992 6:00 PM - 8:30 PM Alpha Omega Church Auditorium 591 Morton Street **Dorchester**	Mari Adams, Co-Chairwoman Rev. Marlyne M. Campbell, Director People of Color Against Homicide (617)427-9169 (617)436-5473
Recognition of Victim Rights Week Victims Issues Conference	May 1, 1992 9:00 AM - 2:00 PM Mass. Maritime **Buzzards Bay**	Deborah Kane, V/W Director Plymouth, Bristol, and Barnstable County Programs (508)584-8120

The Massachusetts Office for Victim Assistance Presents:

CALENDAR OF EVENTS - 1992 VICTIM RIGHTS WEEK
APRIL 26 - MAY 2

EVENT	DATE/TIME LOCATION	CONTACT
Balloon Launch and Vigil To remember homicide victims and policemen who died in the line of duty	May 2, 1992 12:00 PM - Balloon Launch 7:00 PM - Candlelight Vigil State House **Boston**	Paul Rober Parents of Murdered Children, Greater Boston Chapter (617)848-2179
Sober Dance Dance to raise funds for victims of violent crime	May 2, 1992 8:00 PM, Cardoos Rt 27 Applehill Mall **Natick**	Gail S. MacDonough Victim Advocacy Network, Inc. (508)655-1998
Memorial Candlelight Vigil To remember homicide victims	May 3, 1992 4:00 PM St. Catherine of Sienna Church 49 Vine Street **Charlestown**	Charlestown After Murder Program Sandy King (617)848-8973 Pam Enos (617)242-0995
Memorial Tree Planting Ceremony Tree planting to commemorate victims	TBA Lampron Park Bridge Street **Northampton**	Hannelore Simard MADD Hampden County Chapter (413)592-9953
CORI Press Conference To inform victims of the need to be registered with the Criminal History Board (CORI) and the right to submit an impact statement for parole or commutation hearings.	TBA State House **Boston**	Donna Cuomo The Joey Fournier Victim Services (617)248-0066
Newspaper article in The Spectrum Article will focus on child victimization and sexual abuse	TBA	Jean Szezepaniak St. Anne's Hospital Pediatric Sexual Abuse Program (508)674-5741

The Massachusetts Office for Victim Assistance Presents:

CALENDAR OF EVENTS - 1992 VICTIM RIGHTS WEEK
OTHER UPCOMING EVENTS

EVENT	DATE/TIME LOCATION	CONTACT
Sexual Assault Awareness Month and Child Abuse Prevention Month	April 1992 **Franklin County**	Kathy Alexander (413)586-5780
Family Violence: A Nation Afflicted To explore issues of domestic violence	May 9, 1992 8:30 AM - 4:30 PM Frost School 33 Hamlet Street **Lawrence**	Women's Resource Center (508)685-2480
The Trauma of Sexual Abuse and Assault Crisis Response and Clinical Intervention Models	May 13, 1992 8:00 AM - 4:30 PM Merrimac College **North Andover**	R.A.P.E. Committee Michaelene McCann (508)745-6610 x102 Carolyn Perrault (508)687-0151 x2275
Prevention and Protection: Empowering Elders and People with Disabilities Conference	May 19, 1992 8:30 AM - 4:00 PM Holy Cross College **Worcester**	Attorney General's Office (617)727-2200 Executive Office of Elder Affairs (617)727-7750
Violence Prevention Day: Taking it to the Hill To raise awareness to the issues of violence prevention	June 2, 1992 State House Nurses Hall **Boston**	Homer Lopez, AVPP (617)727-1246 Donna Cuomo, JFVS (617)248-0068
Third Annual Violence Prevention Conference **Adolescent Violence: Dying for Alternatives** **Parents and Providers in Partnership**	May 28, 1992 6:00 PM - 9:00 PM **Boston** Public Library May 29-30, 1992 7:45 AM - 4:00 PM **Roxbury** Community College	Kathy Gavin Violence Prevention Project (617)534-5196
Victim Advocate Training Institute Training for victims and providers dealing with advocacy on drunk driving cases	June 25-27, 1992 Sheraton Inn **Milford**	MADD Bristol County (508)673-6233 Hampden County (413)592-9953 Metrowest (508)-624-6233

Released April 15, 1992 by The Massachusetts Office for Victim Assistance (617)727-5200

Resource Book Contents

The following materials are organized by workshop and content:

Section A: Childhood Sexual Assault

Section B: Domestic Violence

Section C: Drunk Driving

Section D: Rape and Sexual Assault

Section E: Violence Prevention

Section L: Legislators and Committees

Section A

Childhood Sexual Assault

WORKSHOP A: CHILDHOOD SEXUAL ASSAULT

Moderator: Kathleen Alexander, Director
Victim Witness Assistance Program
Northwestern District Attorney's Office
One Court Square
Northampton, MA 01060
(413) 586-5780

Panelists: Representative Barbara Gray
State House, Room 237
Boston, MA 02133
(617) 722-2070

Loretta Kowal, LICSW
78 Neshobe Road
Newton, MA 02168
(617) 969-5989

Gail MacDonough, Director
Victim Advocacy Network
64 Sycamore Road
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(508) 655-1998

Andrew Meyer, Esq.
141 Tremont Street
Boston, MA 02111
(617) 426-6006

Jacqui Vozzella, Member
Victim and Witness Assistance Board
100 Cambridge Street
Boston, MA 02202
(617) 961-5607

INFORMATION ABOUT CHILD SEXUAL ABUSE

Child sexual abuse occurs when a child is exploited sexually by an older person. Abuse can take many forms exposure of sexual parts of the body, obscene phone calls, voyeurism, use of pornography, fondling, and oral vaginal, or anal intercourse.

Children are most commonly sexually abused by someone they know and trust. When these acts occur within family the sexual abuse is called incest. There may be a single occurrence, but most likely the abuse will continue over a period of time, often for years. The abuse generally begins with non-violent acts such as fondling. The child is coerced and manipulated into remaining silent. Victims are terrified of revealing the abuse due to confusion, guilt, and fear of being blamed, punished, or not believed.

The vast majority of child molesters are teenaged or adult males. Most are heterosexual men, many with children of their own and a wife or girlfriend. Child molesters come from all socio-economic levels, religions, and ethnic backgrounds.

Victims of child sexual assault do not cause the abuse and are never to blame. The offender, not the victim or non-offending family members, is responsible.

Young children who have been sexually abused may show a combination of several symptoms:

- personality change
- discomfort around someone trusted
- unusual interest in own or others' genitals
- mood swings, excessive crying
- changes in toileting behavior, eating, or sleeping habits
- behavior problems
- advanced knowledge of sex acts

Older children may show a combination of several symptoms:

- avoidance of gym class
- indirect allusion to problems at home
- aversion to going home
- avoiding touch
- running away
- drop in grades
- bodily complaints
- difficulty making friends
- inattentiveness
- substance abuse
- fantasizing
- sexual promiscuity

Physical symptoms may include: torn or stained clothing; and/or genital, anal bleeding or pain; swollen/red cervix, vulva or perineum; sexually transmitted disease.

The after-effects of child sexual abuse generally do not simply disappear once the abuse ends. Long term problems include: depression, chemical dependency, anxiety, excessive guilt, suicidal fantasies, self-hatred, eating disorders, and/or inability to develop satisfactory sexual relationships. It is important that counseling be offered to victim/survivors even if the abuse was perpetrated years ago.

Child sexual abuse is a crime. If you know or suspect a child is being or has been sexually abused, it is important to make a report to both assist the victim and to protect other children. Call the 24 hour National Child Abuse Hotline for assistance and referral: 1-800-422-4453.

Here are the facts:

-60,000 to 100,000 children are sexually abused in the U.S. each year (Bander, Fein, and Bishop, 19
-In 80% of reported child sexual assault cases, the children were assaulted by someone in the family (National Center of Child Abuse, 1976).
-Twenty-nine percent of perpetrators of child sexual abuse are relatives, 60% are acquaintances, and 11% are strangers (Russell, Diana, 1986).
-Ten percent of all rape victims are under age 5 (Robert Geiser, 1979).
-In a 1985 poll, 27% of women and 16% of men reported they were molested as children (Los Angeles Times, 1985).
-One in four girls and one in seven boys will have been sexually assaulted by age 18 (Russell, 1983; Finkelhor, 1978; Sgroi, 1978).
-10.9-17.6 million men have sexually abused a child (Los Angeles Times, 1985).
-Eighty-three percent of child molesters are heterosexual; the remaining 17% are bisexual (Groth, 19
-It is estimated that child sexual abuse occurs five to 10 times more often than the incidents reported (Tsai and Wagner, 1978).
-An estimated two percent of familial child abuse and six percent of extra-familial child sexual assault cases are reported to authorities (Russell, 1983).

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Herman, J. Father-Daughter Incest. Cambridge, MA: Harvard University Press, 1981.

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Rush, F. The Best Kept Secret: Sexual Abuse of Children. New York: McGraw-Hill, 1980.

Russell, Diana. The Secret Trauma. NY: Basic Books, 1986.

Sanford Tschihart, L. The Silent Children: Parent's Guide For the Prevention of Child Sexual Abuse. New Yo McGraw-Hill, 1980.

NATIONAL COALITION AGAINST SEXUAL ASSAULT
PO BOX 21378
WASHINGTON, DC 20009
(202) 483-7165

Revised 1992

HOUSE . . . . . No. 2107

By Mrs. Gray of Framingham, petition of Barbara E. Gray and other members of the General Court for legislation to further regulate the statute of limitations for filing civil damage suits by minor victims of sexual abuse. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT FURTHER REGULATING THE STATUTE OF LIMITATIONS FOR FILING CIVIL DAMAGE SUITS BY MINOR VICTIMS OF SEXUAL ABUSE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1 of chapter 260 of the Massachusetts General Laws as appearing in the 1988 Official Edition is amended by inserting after section 4B the following new section: —

Section 4C. Actions for assault and battery alleging the defendant sexually abused a minor shall be commenced within three years of the acts alleged to have caused an injury or condition or within three years of the time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by said act, whichever period expires later; provided, however, that the time limit for commencement of an action under this section is tolled for a child until the child reaches eighteen years of age.

For purposes of this section, "sexual abuse" shall mean the commission of any act against a minor as set forth in section thirteen B, thirteen H, twenty-two, twenty-two A, twenty-three, twenty-four, or twenty-four B of Chapter two hundred and sixty-five or section two, three, four, four A, four B, five, seven, eight, thirteen, seventeen, twenty-nine A, thirty-four, thirty-five, or thirty-five A of chapter two hundred and seventy-two.

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The Commonwealth of Massachusetts

House of Representatives
Committee on Ways and Means
STATE HOUSE, BOSTON 02133

BARBARA E. GRAY
6TH MIDDLESEX DISTRICT
220 EDMANDS ROAD
FRAMINGHAM, MA 01701
TEL. (508) 877-0597

STATE HOUSE OFFICE
ROOM 237
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Committee on Ways and Means
Committee on Rules
Divorce Commission
House Chairperson
Local Aid Commission
School Bus Safety Commission
Parenting Leave Commission
Special Commission on
Growth and Development
Special Commission on
Temporary Disability and
Dependent Care Insurance

FACT SHEET

TITLE: AN ACT FURTHER REGULATING THE STATUTE OF LIMITATIONS FOR FILING CIVIL DAMAGE SUITS BY MINOR VICTIMS OF SEXUAL ABUSE.

BILL NO. H-2107

COMMITTEE: JUDICIARY

PUBLIC HEARING: March 9, 1992 Room 136 1:00 P.M.

SPONSOR: REPRESENTATIVE BARBARA E. GRAY

CO-SPONSORS: Representatives Cleven, Gardner, Hildt, & Parente

PRESENT LAW: Presently a victim of childhood sexual abuse must bring a claim for civil damages within three years from the date-of-injury. The statute does not begin to run until the victim reaches the age of eighteen. The childhood victim therefore has until the age of twenty-one to bring a civil action against his/her abuser.

PROPOSAL: To amend Chapter 260 to provide for the application of the "discovery rule" to the statute of limitations for civil actions based on the sexual abuse of minors. This would permit victims of childhood sexual abuse to bring civil actions within three years of the acts alleged to have caused the injury or condition or within three years of the time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by the act, whichever period expires later.

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PURPOSE: Childhood sexual abuse is extremely common and goes largely unreported and undetected. According to the Massachusetts Society for the Prevention of Cruelty to Children, there are approximately 210,00 new cases of child abuse reported every year. This breaks down to the fact that at least one in four girls, and one in seven boys, are sexually abused by the time they reach the age of 18.

Undisclosed and emotionally burdensome to the child, sexual abuse often causes long lasting harm to the victim. The damage usually persists for many years after the victim is no longer under the authority of the perpetrator. Many victims repress the memory of the abusive incident(s) well into the adult years until such time as a specific event or professional counseling assists the victim in recalling the events. The present statute effectively denies redress for many victims as the time within which a claim must be filed is shorter than it takes this victim to discover that such a claim exists.

Clinical findings in adults with a history of childhood sexual abuse can include the following systems: impairment of memory, post traumatic stress systems, feelings of distrust and helplessness, feelings of self-blame.

OTHER STATES: To date, fifteen states have amended their pertinent statutes to provide for accrual of a cause of action upon discovery: Alaska, California, Colorado, Illinois, Iowa, Maine, Maryland, Minnesota, Montana. Missouri, Nevada, Oregon, South Dakota, Vermont, Washington.

In Maine and Minnesota, a victim of childhood sexual abuse may bring a claim for civil damages within six years of the time of discovery.

SPECIAL NOTE: In 1987 C. 277 s 63, the statute of limitation for criminal action, was amended to permit child victims of sexual abuse under C. 265 s. 24B to bring a criminal complaint within ten years of the date the incident is reported to law enforcement officials or within ten years of their sixteenth birthday, whichever occurs earlier. This change enables the childhood victim to bring the criminal complaint up to the age of twenty-six.

The Civil Statute of Limitation For Adult Survivors of Childhood Sexual Abuse

The Phenomenon

The rights of innocent victims of childhood sexual abuse are presently jeopardized in the Commonwealth of Massachusetts due to legislative inaction to amend M.G.L.C.260, the civil statute of limitation applicable to actions based on childhood sexual abuse. The present three year limitation does not permit the victim enough time to seek redress. Most cases of abuse go undetected and unreported by the victims until well into their adult years at which time most victims are told it's too late; that their claim is time-barred by a statute of limitation they didn't even know was running.

Undisclosed and emotionally burdensome to the child, sexual abuse often causes long lasting harm to the victim. The damage usually persists for many years after the victim is no longer under the authority of the perpetrator. Mental health experts refer to "disassociation" as one mechanism employed by child victims of sexual abuse to cope with their feelings of anxiety and desperation. The victim fails to not make the connection between the traumatic events and the feelings one would ordinarily associate with such incidents; thus the significance of the horrifying events are repressed. This enables the victim to survive psychologically in a terrifying and inescapable situation.

The Legal Problem

The deep rooted internalization which helps the child survive episodes of sexual abuse also serves to limit the adult survivor's capacity to hold the perpetrator accountable in a court of law. The victim cannot pursue redress as long as he or she cannot recall the abuse in detail. Presently in Massachusetts a victim of childhood sexual abuse must bring a claim within three years from the date-of-injury. This statute does not run during the victim's minority, giving him or her

until age twenty-one to remember, understand and accept the abuse, contact an attorney and file the claim. The statute effectively denies redress for many victims as the time within which a claim must be filed is shorter than it takes this plaintiff to discover that such a claim exists.

The Solution

The attached bill which was engrossed in the House in 1990 would open up the civil process to adult survivors of childhood sexual abuse by applying a "discovery" based statute of limitations. The "discovery rule" is a legal doctrine which stops the applicable statute of limitation from running until such time as the victim becomes aware that he/she has been injured. In Massachusetts, as in most states, the discovery rule provides that "a cause of action begins to accrue (run) on the date the plaintiff discovered or reasonably should have discovered that he or she has been harmed as a result of a defendant's conduct." The purpose of the discovery rule has historically been to prevent the injustice which would result from a literal application of the statute of limitation and to ensure that plaintiffs are not barred from relief before they know they have been injured and can discover the cause of their injury. Clearly the victims of childhood sexual abuse are those plaintiffs that the discovery rule is intended to assist.

In the last three years eleven states have reformed their pertinent statutes to in some form provide for accrual of a cause of action upon discovery. In June of 1988 the state of Washington pioneered this effort by enacting a statute which permits causes of action based on childhood sexual abuse to be brought "within three years of the act alleged to have caused the injury or condition, or within three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act whichever period expires later." Since then the states of Maine, Montana, Alaska, Colorado, Iowa, California, Maryland, Minnesota, Missouri and Vermont have enacted similar statutes.

In Massachusetts we have been attempting reform in this area since 1985. Several versions of this proposal have been engrossed in the House only to die in the Senate. The 1990 proposal which has been refiled this year in our best draft to date. It has been modeled after legislation adopted in Washington and would permit adult survivors of childhood sexual abuse to bring a civil claim for damages within three years after they recognize the abuse and its cause. As Judge Herbert Abrams, Superior Court Justice of Massachusetts noted while hearing a claim brought by one adult survivor some eleven years after the abuse, "failure to apply the discovery rule to this type of situation would only serve to further punish a plaintiff by holding such action time-barred before the plaintiff could discover the cause of the harm she has suffered."

SENATE . . . . . No. 108

By Mr. Berry, petition (accompanied by bill, Senate, No. 108) of Frederick E. Berry, Kevin M. Burke, James P. Jajuga and Jeffery J. Hayward for legislation relative to the penalty for assault and battery committed against young children. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATING TO ASSAULTS AND BATTERIES COMMITTED AGAINST YOUNG CHILDREN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

The General Laws are hereby amended by inserting after section fifteen B of chapter two hundred and sixty-five, the following section: —

15C. Whoever commits an assault and battery upon a child under the age of five years and thereby disables a limb or member of said child, or otherwise causes serious or permanent injury to said child shall be punished by imprisonment in the state prison for not more than ten years, or in the house of correction for not more than two and one-half years.

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SENATE #108

RATIONALE

Young children, when they are the victims of assaults and batteries, often receive injuries far more serious than adults. Those injuries frequently include broken limbs and/or brain injury causing lifetime disability. Recently, prosecutors have encountered instances where infants have been reduced to permanent vegetative states as the result of beatings inflicted by adult care-givers.

As the law currently stands, the crime of assault and battery, which is a misdemeanor carrying a maximum penalty of two and one-half years in the house of correction, is the only crime with which assailants in such cases can be charged. The crime of mayhem, which is a twenty-year felony, is generally not applicable because it requires a specific intent to maim which is usually absent, or at least extremely difficult to prove, in cases of child beatings.

The proposed legislation remedies the current gap in the penalty structure by providing an enhanced penalty for child beatings which result in serious bodily injury.

[See Senate No. 145 of 1991.]

SENATE . . . . . No. 109

By Mr. Berry, petition (accompanied by bill, Senate, No. 109) of Frederick E. Berry and Kevin M. Burke for legislation relative to the crime of abduction of children by relatives. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two

AN ACT RELATIVE TO THE CRIME OF ABDUCTION OF CHILDREN BY RELATIVES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 265, Section 26A of the General Laws is hereby deleted and replaced by the following section: —

(a) Whoever being a relative of a child less than eighteen years old takes, holds, entices, or conceals such a child from another person who has rights to physical custody or visitation, whether by court order, by reason of marriage or otherwise by operation of law, with the intent to deprive said person of his or her rights to physical custody or visitation, or takes, holds, entices or conceals from lawful custody any incompetent person or person entrusted by authority of law to the custody of another person or institution with the intent to deprive another person or institution of their rights to physical custody, shall be punished by imprisonment in the house of correction for not more than two and a half years or by a fine of up to one thousand dollars, or both. Whoever commits any offense described in this section by taking or enticing said child outside the Commonwealth or under circumstances which expose the person taken, held, enticed or concealed from lawful custody to a risk which endangers his safety shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the state prision for not more than five years, or by both such fine and imprisonment.

(b) Any expense and costs reasonably incurred by parent, other person or institution in locating and returning a child taken, held, enticed, or concealed in violation of this section shall be assessed, by order of court, against any defendant convicted of a violation of this section, unless the court for good cause waives such reimbursement.

(c) A law enforcement officer shall not be held liable for taking physical custody of a child or for delivering the child to a person whom he reasonably believes is the child's lawful custodian or to any other suitable person or institution, if he has reasonable belief that a child has been taken, held, enticed or concealed in violation of this section.

For the purposes of this subsection, "reasonable belief" a child has been taken, held, enticed or concealed in violation of this section includes but is not limited to, a determination by a law enforcement officer, based upon his review of the terms of a certified copy of the most recent decree granting custody or visitation of the child, that the patient who is exercising control over the child is not the person authorized to have physical custody under the terms of the decree. A law enforcement officer may arrest without a warrant any person who he has probable cause to believe has violated or is violating this section.

SENATE . . . . . No. 110

By Mr. Berry, petition (accompanied by bill, Senate, No. 110) of Frederick E. Berry, Kevin M. Burke, James P. Jajuga and Jeffery J. Hayward for legislation relative to the penalty for knowingly and intentionally depriving children of certain basic needs. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATING TO THE WELL-BEING OF YOUNG CHILDREN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

The General Laws are hereby amended by adding, after section eighteen A of chapter two hundred and seventy-three, the following section: —

19. Whoever, having physical custody of a child under the age of five years, knowingly and intentionally deprives said child of adequate food, clothing shelter or medical care, and thereby causes serious injury to said child, shall be punished by confinement in the state prison for not more than ten years, or in the house of correction for not more than two and one-half years.

SENATE #110

RATIONALE

Massachusetts currently does not recognize as a crime the neglect of a child which results in serious bodily injury. Thus, a parent who intentionally starves a child, or permits such child to freeze, or declines to provide medical care for broken limbs or internal injuries, to a point where serious injury (but not death) results, suffers no penalty. The proposed legislation remedies such an inequity.

[Similar Matter Filed During Past Session —
See Senate No. 633 of 1991.]

SENATE . . . . . No. 711

By Mr. Berry, petition (accompanied by resolve, Senate, No. 711) of Frederick E. Berry and Kevin M. Burke, that provision be made for an investigation and study by a special commission (including members of the General Court) relative to the certification of experts in the area of child sexual abuse. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

RESOLVE ESTABLISHING A SPECIAL COMMISSION TO CERTIFY EXPERTS IN THE AREA OF CHILD SEXUAL ABUSE

Resolved, That a commission should be created to study the feasibility of establishing a Board whose function would be to draft standards and qualifications for individuals in the area of child sexual abuse, and to certify individuals who meet those qualifications as having acknowledged and recognized expertise in the area of child sexual abuse.

Said Board Certified individuals may be used as a resource by the various Courts, Probation Departments, District Attorneys' Offices, Department of Social Services or other designated State Agencies to assist them in assessing and evaluating cases where a child under the age of sixteen years is alleged to be the victim of sexual abuse.

The Legislative Commission is to be comprised of members of the Senate and House of Representatives, representatives of the Judiciary and District Attorneys' Offices, the Commissioner of the Department of Social Services, or his designee, and representatives of Pediatric and Psychiatric Associations, and other individuals deemed necessary and appropriate by said named representatives.

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HOUSE . . . . . No. 2845

By Ms. Gardner of Holliston, petition of Barbara Gardner for legislation to establish standards for admissions of testimony of children in sexual abuse cases. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two

AN ACT ESTABLISHING STANDARDS FOR ADMISSIONS OF TESTIMONY OF CHILDREN SUBJECT TO SEXUAL ABUSE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 277 of the General Laws is hereby amended by inserting after section 47B the following section:

Section 47C. In any civil or criminal proceedings involving a child under the age of sixteen years who allegedly has been a witness to, or the victim of, sexual abuse, there is herewith established a presumption of competency. The court shall make a further determination of the competency and suitability of said child to testify, considering among other relevant factors, the following characteristics of said child:

1. Present understanding of the difference between truth and falsity and an appreciation of the obligation or responsibility to speak the truth, whether or not the abstract concept of an oath is comprehended.

Inconsistent statements in a child's testimony may not render the testimony invalid, nor the child victim or witness incompetent.

All of a child's statements taken in testimony shall be judged in the context of his or her entire testimony.

2. Mental capacity, at the time of the offense(s) in question, to observe or receive impressions of the incident(s). Present mental capacity shall consider:

Testimony shall be accepted according to the child's developmental level, cognitive capacity, emotional state, behavioral characteristics, and other such conditions.

The child shall not be expected to relate concepts of time, sequence, exact detail, and other such concepts that may or may not have developed.

Questions asked of the child shall be on a par with the child's level of understanding.

3. Memory capacity sufficient to retain an independent recollection of the observations and experiences that the child is relating in testimony.

4. Capacity truly to communicate or translate into words or gestures, or by any means available to that child, the memory of such observation and the capacity to understand simple questions about the occurrence.

In order to further the purposes of this act, the following shall be allowed:

The burden of raising and proving incompetency shall be on the party alleging it.

Competency of the child victim or witness shall be determined on a case by case determination, without the use and application of absolute standardized competency tests or examinations.

As there is no known correlation between age and honesty, there is generally no precise age below 16 years of age at which children shall be excluded from testifying as a victim-witness or witness of such offenses.

The child shall be afforded all rights equally as those rights afforded to any other victim-witness.

Allowances for any number of sessions necessary to account and relate incident(s) and experiences by the child.

A child specialist shall be present in attendance and participate throughout the testimony, if necessary.

HOUSE . . . . . No. 2955

By Mr. Brett of Boston, petition of James T. Brett and Christopher J. Hodgkins for legislation to prohibit the infliction of physical injury or other acts of negligence to children. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT PROHIBITING CERTAIN ACTS AGAINST CHILDREN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 265 of the General Laws is hereby amended by adding the following section: —

Section 40. (a) For the purposes of this section the following words shall, unless the context indicates otherwise, have the following meanings: —

"Child", any person who is sixteen years of age or less.

"Person having care and custody", a natural parent, foster parent, guardian, employee of a home or institution or any other person with equivalent supervision of a child, whether the supervision is temporary or permanent.

"Physical injury", impairment of the physical condition including, but not limited to, any contusion of the skin, laceration, failure to thrive, malnutrition, burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury causing bleeding, or any physical condition which imperils a child's health or welfare.

"Serious physical injury", any physical injury which creates a permanent disfigurement; protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

(b) Any person who inflicts upon a child physical injury or, having the care and custody of such child, causes or permits another to inflict physical injury upon a child shall be punished by imprisonment in the state prison for not more than 10 years or imprisonment in the house of correction for not more than two and one half years.

(c) Any person who inflicts upon a child serious physical injury or, having the care and custody of such child, causes or permits another to inflict serious physical injury upon a child shall be punished by imprisonment in the state prison for not more than twenty years.

(d) Any person who, having care and custody of a child, willfully or negligently, permits serious physical injury to a child shall be punished by imprisonment in the state prison for not more than twenty years.

HOUSE . . . . . No. 5163

By Miss O'Brien of Eastnampton, petition of Shannon P. O'Brien and Salvatore F. DiMasi for legislation to prohibit certain acts of physical injury against children and providing penalties for such violations. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT PROHIBITING CERTAIN ACTS AGAINST CHILDREN

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 265 of the General Laws is hereby amended by adding the following section: —

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"Physical injury", impairment of the physical condition including, but not limited to, any contusion of the skin, laceration, failure to thrive, malnutrition, burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury causing bleeding, or any physical condition which imperils a child's health or welfare.

"Serious bodily injury", any physical injury which creates a permanent disfigurement; protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

(b) Any person who inflicts upon a child physical injury or, having the care and custody of such child, causes or permits another to inflict physical injury upon a child shall be punished by imprisonment in the state prison for not more than 10 years or imprisonment in the house of correction for not more than two and one-half years.

(c) Any person who inflicts upon a child serious physical injury or having the care and custody of such child, causes or permits another to inflict serious physical injury upon a child shall be punished by imprisonment in the state prison for not more than twenty years.

(d) Any person who, having care and custody of a child, willfully or negligently, permits serious physical injury to a child shall be punished by imprisonment in the state prison for not more than twenty years.

Spectrum of Sexually Abusive Behaviors

Sgroi, Suzanne M. (1983). *Handbook of Clinical Intervention in Child Sexual Abuse.* Lexington, Ma.: Lexington Books.

1.) **Nudity:** The adult parades nude around the house in front of all or some of the family members.

2.) **Disrobing:** The adult disrobes in front of the child. This generally occurs when the child and the adult are alone.

3.) **Genital Exposure:** The adult exposes his or her genitals to the child. Here the perpetrator directs the child's attention to the genitals.

4.) **Observation of the Child:** The adult surreptitiously or overtly watches the child undress, bathe, excrete, urinate.

5.) **Kissing:** The adult kisses the child in a lingering and intimate way. This type of kissing should be reserved for adults. Even very young children sense the inappropriateness of this behavior and may experience discomfort about it.

6.) **Fondling:** The adult fondles the child's breasts, abdomen, genital area, inner thighs, or buttocks. The child may similarly fondle the adult at his or her request.

7.) **Masturbation:** The adult masturbates while the child observes; the adult observes the child masturbating; the adult and child observe each other while masturbating themselves; or the adult and child masturbate each other (mutual masturbation).

8.) **Fellatio:** The adult has the child fellate him or the adult will fellate the child. This type of oral-genital contact requires the child to take a male perpetrator's penis into his or her mouth or the adult to take the male child's penis into his or her mouth.

9.) **Cunnilingus:** This type of oral-genital contact requires the child to place mouth and tongue on the vulva or in the vaginal area of an adult female or the adult will place his or her mouth on the vulva or in the vaginal area of the female child.

10.) **Digital (finger) Penetration of the Anus or Rectal Opening:** This involves penetration of the anus or rectal opening by a finger. Perpetrators may thrust inanimate objects such as crayons or pencils inside as well.

11.) **Penile Penetration of the Anus or Rectal Opening:** This involves penetration of the anus or rectal opening by a male perpetrator's penis.

12.) **Digital (finger) Penetration of the Vagina:** This involves penetration of the vagina by a finger. Inanimate objects may also be inserted.

13.) **Penile Penetration of the Vagina:** This involves penetration of the vagina by the male perpetrator's penis.

14.) **Dry Intercourse:** This is a slang term describing an interaction in which the adult rubs his penis against the child's genital-rectal area or inner thighs or buttocks.

15.) **Other:**

VICTIM ADVOCACY NETWORK INC.

DID YOU KNOW?

FACTS ABOUT CHILD ABUSE, NEGLECT & SEXUAL ASSAULT

The following statistics about the incidence of child/adolescent abuse and neglect and sexual abuse were compiled by the Mass. Caucus of Women Legislators. Victim Advocacy Network, Inc. feels strongly that the public needs to be aware of the prevalence of these crimes against children. We urge you to lend your support and join in our effort to help put a stop to these hideous crimes. Together, we CAN make a difference!

Nationally:

since 1976, substantiated reports of child sexual abuse have increased by 650%.

Those adults mistreated as children are 80% more likely to abuse their own children.

Estimates are that over 500,000 children were sexually abused in 1985.

75% of abusive acts against children from infancy to 15 years are for rape alone.

At least 1 in 4 girls and 1 in 7 boys are sexually abused by the time they are 18 years.

Child sexual abuse is the most underreported form of child abuse.

Massachusetts:

Each day 90 children are reported as abused or neglected.

In FY86, DSS received 49,799 reports of child abuse/neglect: 18,295 of which were substantiated. This figure represents a 49% increase over FY84.

In FY86, DSS had 3,148 substantiated reports of child sexual abuse, a 26% increase over FY84.

Offenders:

Pedophiles frequently do not perceive that their acts against children are wrong, nor do they perceive the long-lasting and often permanently damaging consequences to their victims

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pedophiles, those whose addictive behavior consists of a sexual preference for children, move from state to state, sexually abusing 300-400 children before they are caught.

Women perpetrate 20% of sexual abuse offenses against boys, and 5% of sexual abuse against girls.

Many incest offenders also commit sex offenses outside the family.

Child victims live in a climate of fear, intimidation and threats. Victims are often threatened and are under constant duress not to disclose the abuse, further adding to their shame, humiliation and degradation.

Juvenile Offenders:

Between 1983 and 1985, juvenile sex offenders population increased by approximately 80%.

In 1986, of all sex offenders, 600 were juveniles.

Victims are usually female, age 10 years and younger. Males are victims in about one-fourth of the cases.

A profile of a juvenile sex offender is that of a 14 year old boy, white, from a one parent home, and one who experiences school behavior problems. There are variations of the profile.

Most juveniles do not receive behavior-specific counseling for sex offenses.

About 70% of juveniles found guilty get probation, no punishment and no treatment.

Court Proceedings:

In 1986, of the 2,000 sexual abuse cases reported to the District Attorneys as substantiated, fewer than half were prosecuted.

Only 1 in 4 child abuse cases are prosecuted within a year.

One out of 3 child abuse offenders who are convicted get probation; 1 out of 3 get court-ordered treatment.

69% of sentences given to child abusers result from defendants changing their pleas to guilty following plea-bargaining.

Those who are convicted of child rape receive a median prison term of 2 years, less than half the median prison terms given adult rapists.

One half of judges give NO JAIL time to convicted child rapists

VICTIM
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NETWORK
INC.

MYTHS AND FACTS ABOUT CHILD SEXUAL ABUSE

MYTH: The "total stranger" represents the greatest potential threat to a child.

FACT: 75-95% of offenders are known to the child. About ½ of offenders are parent figures.

MYTH: Sexual abuse is found in higher frequency in low socio-economic, uneducated, non-white populations.

FACT: Incest happens in families from all classes, races, economic and social backgrounds. It happens in a cross-section of American families.

MYTH: Incest is a family system problem.

FACT: In 63% of cases reported to the Seattle Sexual Assault Center, there were no other significant family problems.

MYTH: The child victim of sexual misuse initiates the crime, directly or indirectly, by fantasizing, seducing, exaggerating, or enjoying such activity.

FACT: Offenders tend to attribute sexual meaning to normal expressions of affection and attention. Incest is the adult's responsibility, no matter who initiates the behavior.

MYTH: Children lie and fantasize about sexual relations with adults.

FACT: Children speak from their own experiences. They cannot make up this information unless they have been exposed to it. Children may retract or change their statement if they feel the results of reporting are going to cause them more distress.

MYTH: Most sexually abused children want to, and will, leave home to escape the abusive situation.

FACT: Most children want to stay, but wish the abuse to stop. Many teenagers see no other alternative than to run away.

MYTH: Discussion about sexual abuse will frighten children so that they are afraid of all touch.

FACT: Touching is a fundamental need for all human beings. We believe that children understand the differences between appropriate and inappropriate touch and those who have permission to talk about touch that is confusing, will be healthier about touching and being touched.

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MYTH: Victims of sexual abuse are not harmed by the experience.

FACT: Sexual abuse can cause such problems as:
1) development of a negative self-image;
2) difficulty in developing relationships which involve trust and sharing;
3) difficulty in forming satisfying sexual relationships;
4) development of behaviors such as truancy, runaway, prostitution, drug abuse, withdrawal and isolation.

MYTH: Siblings of victims are not harmed.

FACT: Other children within the family often know about the abuse at some level. They share with the victim feelings of confusion, responsibilitym and shame. For their own survival they feel obliged to keep the offense a secret. In the aftermath of reporting, siblings also require help. Siblings are often victims as well.

MYTH: Mothers always know and/or give a form of approval for incestuous relationship within their own family.

FACT: Mothers often do not know about incestuous relationships, although some mothers suspect and do not know what to do or feel powerless to act. Children sometimes attempt to protect their non-offending parent from this knowledge. There are all kinds of mothers of victims, just as there are all kinds of mothers in the general population.

MYTH: Women do not sexually abuse children.

FACT: Women perpetrate 20% of sexual abuse offenses against boys and 5% of sexual abuse against girls.

MYTH: The offender is "sick" - he cannot control his impulses and is not responsible for his actions.

FACT: Sexual abuse is a planned act. Most offenders know right from wrong and choose not to be responsible for his actions. 85-90% of all offenders test well within the normal range when psychologically tested. The offender exhibits self-centered and passively or aggreively controlling behavior. The offender's task in treatement is to take responsibility for the sexual abuse and develop responsible thinking and behavior in all relationships.

MYTH: Children are not sexual beings.

FACT: Human beings' sexuality is inherent aned apparent from birth. Children like their bodies and have sexual feelings until they are taught to repress, deny, or appropriately handle those feelings and behavior.

Taken from resources and fact sheet compiled by the Child Sexual Abuse Prevention Program, YWCA & Ponderosa Council of Campfires, 1982

Characteristics of Abusive Families

We all have the capacity to strike out in anger, fear, pain or frustration, and this capability defines all of us as potential child abusers. Yet most of us are able to control these violent impulses. This profile concerns the broad categories of experience and dynamics that contribute to the abusive parent's inability to control these impulses. An increasingly comprehensive and authoritative body of literature defines seven general problem areas: 1) unfulfilled needs for nurturance and dependence, 2) fear of relationships, 3) inability to care for or protect a child, 4) lack of nurturing child-rearing practices, 5) lack of support systems, 6) marital problems, and 7) life crises. The following is not intended as a definitive profile of factors contributing to physical abuse. Rather, it is designed as an overview and reference guide to the special problems which can contribute to abusive behavior.

The Influence of Personal Factors

Unfulfilled Needs for Nurturance and Dependence

Many abusive parents were significantly and consistently deprived of emotional support as children. They were unable to depend consistently on the adults in their lives for support, physical or emotional care, or love. The abusive parent's own needs to be parented were essentially unsatisfied. These unmet needs may carry over into adulthood and shape relations with family, friends and especially children. Fear, frustration and anger are associated with these unmet needs and abusive parents are more likely to act on impulses. The degree of fear, frustration and anger generally corresponds to the level of deprivation experienced in childhood.

Abusive parents often lack the skills and abilities necessary to provide emotionally for themselves. They have not learned to identify and obtain the emotional support they need from others, nor have they learned how to cope with the anger, fear and frustration they feel in relation to these unmet needs. As a result, they experience a severe lack of self-esteem or sense of self-worth. Abusive parents feel unloved, unappreciated and unwanted. This negative self-image often leads to perceptions of themselves as insignificant, unattractive or stupid.

Low self-esteem can lead to low expectations. Abusive parents are likely to expect, even to invite, rejection. A vicious cycle of negative self-image may lead to behavior which denies satisfying or fulfilling relationships with others. Some of this behavior is focused on avoiding rejection and failure. Other, more aggressive or offensive behaviors may actually provoke rejection; abusive parents may actually make themselves difficult to like.

While they still desperately need the support and reinforcement denied during childhood, they are at a loss as to how to achieve it, and may, in fact, act in ways which serve to deny them the sense of belonging and worth they so strongly need.

In addition, many abusive parents were themselves physically or sexually abused as children. They tend to accept extreme forms of physical punishment as normal aspects of parent-child interactions.

Fear of Relationships; Isolation

Abusive parents expect very little from others in the way of friendship or support. They avoid rejection and anger by breaking off close personal relationships. They avoid committing themselves to caring relationships with neighbors, friends and even family. They are afraid to reach out to make contact. If both parents have a sense of personal isolation, the problem is compounded. The family will be cut off from all outside sources of support. This internal dependency exerts added pressures on the family unit which may further increase the likelihood of abuse.

Inability to Care for and Protect a Child

The abused child may fill one of many roles in the family and in a parent's life. He or she may represent an attempt on the parent's part to fulfill needs for love, acceptance and dependence. This situation constitutes a type of role-reversal in which the child becomes the nurturer of the parent, the life-giver. When the child is unable to fulfill the parent's emotional needs, the resulting frustration and disappointment can lead to abuse.

The child may also be perceived by the parents as an extension of self. The parent's lack of self-esteem and negative self-image may be projected onto the child as well. The child becomes a scapegoat and is made to pay for the parent's sense of inadequacy and failure.

The special child — one who is mentally, physically or developmentally handicapped and may have special needs or require extra parental attention — may provoke feelings of resentment in the parent. In these cases, parent-child bonds may be too weak to protect the child from parental frustration and anger. In addition, the children may react to abusive dynamics in the family by developing personality or behavior traits that are unattractive. These traits may actually heighten the likelihood of abuse and place these children in constant danger.

Lack of Nurturing Child-Rearing Practices

Abuse may also be contingent on the child-rearing practices used by the family. Child-rearing skills are acquired by observing family, social and cultural role models. Abuse may result from child-rearing practices which, while considered unacceptable by community standards, are seen as normal within the family unit.

Various cultures and sub-cultures have a variety of child-rearing patterns and methods of punishment which are considered appropriate for dealing with unacceptable behavior. These methods may be passed from generation to generation even after they become unacceptable by community standards. In some cases, these punishment practices can result in injuries or conditions that are considered abusive by the community even though the family may consider them to be normal child-rearing.

Unrealistic Expectations

In addition, parents may have unrealistic expectations of a child's developmental abilities. They may be unfamiliar with what a child can be expected to do at a certain age. Punishment is inevitable when a child fails to meet inappropriate expectations. In other cases, performance or developmental standards may reflect parental attemps to control the child. The parent may be acting out a need for dominance by demanding high levels of performance from a child. When the child fails to perform at these inflated levels, the parent's frustration results in abuse.

It is important, in looking at this kind of overview and reference guide for the special problems which can contribute to abusive behavior, to recognize that no abuser suffers from all of the problems noted, nor does any one abuser have all of the characteristics represented here.

The Influence of Environmental Factors

Lack of Support Systems

Frequently, abusive parents are emotionally unable to establish or utilize outside support systems even when the opportunity is available. They have not learned how to ask for and receive the kind of help they need to provide for themselves and their children. This inability intensifies the danger in times of crisis. With outside lifelines cut off, the abusive parent has nowhere to turn during periods of heightened stress. Often, it is during these periods that the potential abuser becomes the actual abuser.

Marital Problems

The lack of support systems often extends to marital relationships. Abusive parents frequently find themselves locked into a non-nurturing, noncommunicative marriage in which neither spouse is able to support or adequately meet the other's needs. Childen are involved in the process of the parents' acting-out of anger and frustration. The child may be ignored or abandoned because he constitutes a painful reminder of marital dissatisfaction. A child who reminds one parent of the other may become the target of displaced anger. The parents may use the child as a seesaw, tugging and pulling at both ends for attention. Mutual abuse of a child may represent the only common ground established between parents.

Regardless of the dynamics, the child becomes a conduit for indirect, often angry communications between two frustrated adults. If physical violence is part of parental interaction, this violence is likely to extend to the child as well. A pattern is established in which frustrations are dealt with physically, and restraint of impulses to physically violent behavior is diminished by all family interactions.

Life Crises

External stress is frequently a contributing factor in abuse. Loss of employment or housing, lack of food or clothing, indebtedness, or any domestic crisis which precipitates fear or anxiety, can push the parents into abuse. Significant personal loss such as the death of a close relative or the relocation of a friend or neighbor can strip the parent of precious support mechanisms, heighten the sense of futility and create a feeling of inability to control one's own life. This loss of control can in turn lead to abuse and neglect.

On the other hand, external stress can be a way of life for some abusive families. Some families are crisis-ridden; it is a life-style posture. Everything is a crisis, and the parents are unable to deal with daily pressures or control their environment.

Behavioral Indicators of Child Abuse

Children who are abused physically or emotionally display certain types of behavior. Many of these are common to all children at one time or another, but when they are present in sufficient number and strength to characterize a child's overall manner, they may indicate abuse. More than simple reactions to abuse itself, these behaviors reflect the child's response to the dynamics of the family. Children learn to deny, suppress or exaggerate parts of themselves as they struggle to get their needs met the best way they can in a disturbed, stressful household. These learned survival mechanisms become a child's "mode of operation" used to cope with the world at large. The behaviors which characterize abused children fall into four categories:

Overly compliant, passive, undemanding behaviors aimed at maintaining a low profile, avoiding any possible confrontation with a parent which could lead to abuse. The child has adapted to the abusive situation by trying to avoid any behavior which the abusive parent notices at all.

Extremely aggressive, demanding and rageful behaviors, sometimes hyperactive, caused by the child's repeated frustrations at not getting basic needs met. The child has adapted by seeking to provoke the needed attention with whatever behavior it takes to get the attention.

Role-reversed "parental" behavior, or extremely dependent behavior. Abusive parents have been unable to satisfy certain of their own needs appropriately and so turn to their children for fulfillment, which can produce two opposite sets of behavior in the children. If a parent needs parental attention, the child may be expected to assume this task, and become inappropriately adult and responsible. Other parents, with a need to keep their child dependent, will produce clinging, babyish behavior in the child long after a child in a healthy family would become more self-reliant.

Lags in development. Children who are forced to siphon off energy, normally channeled towards growth, into protecting themselves from abusive parents, may fall behind the norm for their age in toilet training, motor skills, socialization and

language development. Developmental lags may also be the result of central nervous system damage caused by physical abuse, medical or nutritional neglect or inadequate stimulation. There may, of course, be organic or congenital causes for such lags in development.

Most abused children live in uncertain environments where requirements for behavior are inconsistent and unclear. Frequently, discipline is meted out arbitrarily in response to the parent's needs and feelings at the moment rather than to punish a child for transgressing limits. Children may receive some love, affection and security from their parents but are also often frustrated in attempts to fulfill their needs. This inconsistency creates anger and frustration in the child, which is frequently expressed indirectly with the parents or by explosions with others outside the home.

Other abused children have learned to do what the abusive parent wants or expects. At the other end of the spectrum from overly aggressive children, some adapt quickly to others' expectations. Unlike children who act out their frustration and rage, these children have learned not to expect anything in the way of love or support. Their best efforts are directed at avoiding conflict which, in the context of the abusive family, can be triggered by expressing almost any personal need, curiosity anger or playfulness.

Ultimately, a list of specific behaviors to identify child abuse is useful only if the family dynamics that produce those behaviors are clearly understood. The behaviors, verbal and physical, indicate both the survival techniques the child has learned in order to exist in the family and attempts - frequently inappropriate in kind or intensity - to get from others what the parents do not provide. The greater the abuse, the less the child will trust other people and the greater the child's difficulty in responding to love and care.

Physical Indicators of Child Abuse

The following injuries and conditions are often seen in cases of abuse or neglect. These warning signals or indicators should be considered in light of explanations provided, medical history (especially if inconsistent), and the developmental abilities of the child to engage in activities that might have caused the injury.

Bruises and welts	Bruises on any infant, especially facial bruises. Bruises on the posterior side of a child's body. Bruises in unusual patterns that might reflect the pattern of the instrument used, or human bite marks. Clustered bruises indicating repeated contact with a hand or instrument. Bruises in various stages of healing.
Burns	Immersion burns indicating dunking in a hot liquid ("sock" or "glove" burns on the arms or legs or "doughnut" shaped burns of the buttocks and genitalia). Cigarette burns. Rope burns that indicate confinement. Dry burns indicating that a child has been forced to sit upon a hot surface or has had a hot implement applied to the skin.
Lacerations and abrasions	Lacerations of the lip, eye, or any portion of an infant's face. Any laceration or abrasion to external genitalia.
Skeletal injuries	Rib fractures. Fractures of the mandible, sternum or scapulae. Skull trauma. Spinal shaft fracture or spinal trauma. Recurrent injury to same site. Injuries caused by twisting or pulling: Metaphyseal or corner fractures of long bones; Epiphyseal separation; Periosteal elevation; Spiral fractures.

Head injuries	Absence of hair and/or hemorrhaging beneath the scalp due to vigorous hair pulling. Subdural hematomas — hemorrhaging beneath the outer covering of the brain (due to shaking or hitting). Retinal hemorrhages or detachments (due to shaking). Jaw and nasal fractures. Loosened or missing teeth.
Internal injuries caused by blows to midline of abdomen	Duodenal or jejunal hematomas. Rupture of the inferior vena cava. Peritonitus - inflammation of the lining of the abdominal cavity. Laceration of liver, spleen or pancreas. Renal injury. Rigid abdomen; tenderness in abdomen.

Indicators of Child Neglect

Lack of Supervision

Very young children left unattended.
Children left in the care of other children too young to protect them.
Children inadequately supervised for long periods of time or when engaged in dangerous activities.

Lack of Adequate Clothing and Good Hygiene

Children dressed inadequately for the weather.
Persistent skin disorders resulting from improper hygiene.
Children chronically dirty and unbathed.

Lack of Medical or Dental Care

Children whose needs for medical or dental care or medication and health aids are unmet.

Lack of Adequate Nutrition

Children lacking sufficient quantity or quality of food.
Children consistently complaining of hunger or rummaging for food.
Children suffering severe developmental lags.

Lack of Adequate Shelter

Structurally unsafe housing or exposed wiring.
Inadequatge heating.
Unsanitary housing conditions.

In identifying neglect, be sensitive to:

Differing cultural expectations and values.
Differing child-rearing practices.
Issues of poverty vs. neglect. Neglect is not necessarily related to poverty; it reflects a breakdown in household management, a breakdown of concern for and caretaking of the child.

from the National Center for Child Abuse and Neglect Specialized Training

Making a Report of Child Abuse or Neglect

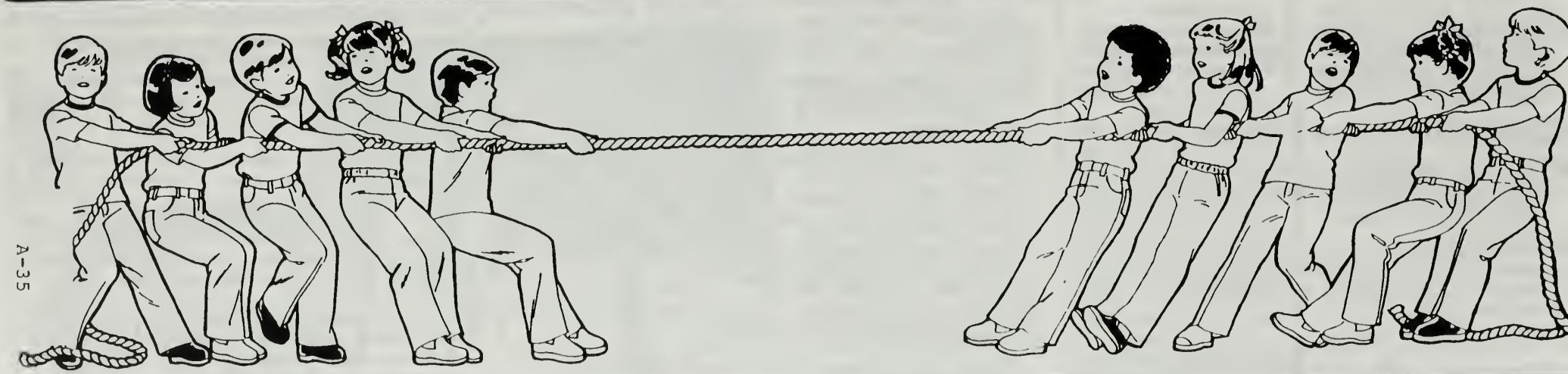
When you telephone a DSS Protective Screening Unit to make a report of possible child abuse or neglect, you will be asked to give, to the fullest extent possible, the following information:

1. The name, address, present whereabouts, sex, and date of birth or estimate age of the reported child or children and of any other children in the household.
2. The names, addresses, and telephone numbers of the child's parents or other persons responsible for the child's care.
3. The principle language spoken by the child and the child's caretaker.
4. Your name, address, telephone number, profession and relationship to the child. (Non-mandated reporters may request anonymity.)
5. The full nature and extent of the child's injuries, abuse or neglect.
6. Any indication of prior injuries, abuse or neglect.
7. An assessment of the risk of further harm to the child and, if a risk exists, whether it is imminent.
8. If the above information was given to you by a third party, the identity of that person, unless anonymity is requested.
9. The circumstances under which you first become aware of the child's alleged injuries, abuse or neglect.
10. The action taken if any, to treat, shelter or assist the child

Remember that mandated reporters must follow up a verbal report by a written report within 48 hours.

1-800-792-5200

If Your Child Has Been Sexually Abused . . .



A-35

This material was prepared by the Pediatric Sexual Abuse Program at St. Anne's Hospital, Fall River, MA 02720. The program is supported by the Massachusetts Office for Victim Assistance with a federal grant from the Victims Of Crime Act, St. Anne's Hospital, and third party reimbursement.

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A Guide For Parents

What You May Want To Know If Your Child Has Been Sexually Abused . . .

Some facts about sexual abuse you may want to understand . . .

- Sexual abuse occurs when there is any sexual contact between an adult and a child, or inappropriate sexual activity between children of any age. The abuse can range from sexual touching to rape.
- Children seldom lie about being sexually abused.
- Children are usually abused by someone they know. The abuser is typically someone well known to, and trusted by the victim's family.
- Both girls and boys (of all ages) are sexually abused. National statistics show that one out of every four females, and one out of every six males will be molested by age eighteen.
- It is very difficult for a child to tell someone about being sexually abused. A child may be afraid that he/she will upset a parent, will be blamed or punished, or will not be believed. The victim may also fear the abuser will physically harm him/her or someone he/she loves.
- Not all children are able to verbally tell us that they have been sexually abused. Instead, some children tell us that something is wrong by their behavior. Possible behavioral warning signs may include:

  Changes in behavior or appetite, sleep disturbance, bed wetting, unusual knowledge of or interest in sexual matters, fear or intense dislike of a person or being left somewhere, regression (behaving as a younger child), social isolation or withdrawal, changes in school behavior and/or grades, changes in appearance, day dreaming, and delinquent running away.
- In 70% of sexual abuse cases, there is no physical evidence. It is important, therefore, not to disregard your child's disclosure if there is an absence of physical evidence.

How you can help your child . . .

- Offer support and reassure your child that you believe him/her and it is not his/her fault.
- Praise the child for sharing the experience and reassure the child that he/she will be protected from further molestation.
- Talk in private with your child and use his/her vocabulary.
- Do not pressure your child to talk about the abuse. Let your child in time tell you what he/she is able to share.
- Respect the privacy of your child by using discretion in sharing this experience with others.
- Do not condemn the abuser to the child. Your child may have mixed feelings toward the abuser.
- Try to follow your regular routine around the home and maintain the appropriate expectations for your child's behavior.
- Report the abuse to your local Child Protection Agency and Legal Authority. Work cooperatively with them, as their purpose is to help you protect your child.
- Contact your child's pediatrician. Let him/her know of the abuse and discuss the need for a specialized examination.
- Have your child evaluated for ongoing therapy by a sexual abuse therapist — a psychiatrist, psychologist, or a clinical social worker who specializes in sexual abuse.
- Be patient during the investigative and evaluative process. It often takes a length of time for a child to make a full disclosure.
- Focus on your child's emotional well-being, rather than vindication against the abuser, or the agencies that have made the problem known to you.

How you can help yourself . . .

- Upon disclosure of sexual abuse by a child, parents themselves often experience a deep emotional crisis. It is normal for parents to experience shock, disbelief, guilt, depression, anger, betrayal, hostility toward the perpetrator, and a sense of loss. You may even question your ability to protect and care for your child.
- As a parent, you may need time to talk over your feelings privately with someone you trust — your spouse, a friend, a relative, or a professional.
- Try not to talk at length with your child about how the sexual abuse has upset you. Also, be careful not to discuss the situation repeatedly in front of your child.
- Your child's emotional well-being is best promoted when this situation is handled in a direct and sensitive manner. For many children, telling his/her story, and being believed and protected promotes healing.
- You are not alone. There are many services available to help you and your child through this crisis. One parent described her experience with a therapist by saying "I didn't feel like I was so alone. It was like someone else was taking half of the hurt away."

Years-after charges of abuse championed

By Mimi Hall
USA TODAY

Patti Barton's personal quest for retribution is about to end: Her father, a man she says raped her when she was 5, has agreed to give her a financial settlement.

But Barton's public crusade won't stop until every state allows adults to sue people who abused them as children — memories that some victims repress for decades.

Already, she and her husband, Kelvin, have persuaded lawmakers in 15 states to change their laws to extend their statutes of limitations. Next week, the Bartons will testify before lawmakers in New York and Kansas. Six other states could pass similar laws by year's end.

Lobbying to change laws has been "real therapeutic," says Kelvin Barton. "The pain creates extra energy and that makes it easier."

This year, the Everett, Wash., couple is especially optimistic because of increased publicity about sexual abuse that has come with revelations by celebrities including Roseanne Arnold, Oprah Winfrey and former Miss America, Marilyn Van Derbur.

ABUSE LAWS

These states have passed laws allowing victims of childhood sexual abuse to file suit against alleged perpetrators up to six years after discovery of the abuse: Alaska, California, Colorado, Illinois, Iowa, Maine, Maryland, Minnesota, Missouri, Montana, Nevada, Oregon, South Dakota, Vermont, Washington.

States considering similar bills: Hawaii, Kansas, Massachusetts, Mississippi, Nebraska, New York, Ohio, Oklahoma.

the trend, saying it is virtually impossible for people to defend themselves against accusations of abuse that rise from the past.

The story of Patti Barton and her father is typical.

Barton says her painful odyssey began more than three decades ago, in her parents' bedroom. It was there, she says, that her father, a Baptist minister and oil business owner, pinned her down and raped her.

Her father, John Peters, tion. He has never been charged with a crime.

His settlement to her — a five-acre plot of land in Washington — "is not an admission of liability," says his lawyer Dick Madson, but rather an effort to avoid a costly court fight that, decades after the alleged abuse, would have been a "battle of experts."

Madson, who advises Peters not to talk to reporters, says Barton's allegations have been "devastating."

"From the defendant's point of view, how do you disprove something that happened 30 years ago?" says Madson.

Barton says she would have taken action against her father years ago — but that she didn't remember the alleged abuse until she was 32 years old, when she started getting therapy to work out problems in her marriage.

Through counseling, she says, the memories came rushing back.

A year later, in 1987, she decided to sue her father to help pay for her therapy. Then, she learned that Washington state's law allowed victims of childhood sexual abuse to file suit only up until age 21.

"Something inside both of

By Robert Sobo, AP

THE BARTONS: The Everett, Wash., couple have persuaded lawmakers in 15 states to change laws to extend statute of limitations in childhood sex abuse cases.

vin Barton.

In 1988, Washington lawmakers became the first in the nation to pass a measure strengthening the rights of child abuse victims. The new law gave victims three years after discovery of childhood sex abuse to file civil suits.

But as soon as the new law took effect, the Bartons faced another obstacle: John Peters moved to Alaska.

So the Bartons took their campaign north and in 1990 ture to change its law, too.

"A car accident victim can temporarily lose memory because of the trauma," Barton tells lawmakers. When it comes to sex abuse, she says, "People can be so traumatized that they block the memory, especially a little child."

So far, her efforts have centered on allowing victims to file civil suits because criminal cases are much more difficult to prosecute.

With her personal case plans to turn her full attention to getting more states to change their laws.

The Bartons say the issue isn't going away.

Although there are no firm figures, an estimated 200,000 to 300,000 children are sexually abused each year, says Patricia Toth of the National Center for the Prosecution of Child Abuse.

Ultimately, "what we need to do," says Toth, "is concentrate on bringing these crime

4 allege relative raped them 30 years ago

By Gary S. Chafetz
SPECIAL TO THE GLOBE

DEDHAM – Four siblings – two brothers and two sisters – filed suit yesterday against their brother-in-law, who, they say, raped them more than 30 years ago when they were between the ages of 11 and 17.

In a collective interview Thursday, each said that he or she had suffered decades of mental and emotional anguish without, until recently, knowing the cause, and without knowing that their siblings also had been raped by the same family member.

Marguerite (Jordan) Lipman, 48, of Brookline; Edward W. Jordan Jr., 51, of Braintree; Philip Jordan, 45, of Vermont; and Marilyn (Jordan) Salvetti, 46, of New Jersey, filed suit yesterday in Norfolk Superior Court accusing Victor Varano, 57, of Fairhaven, of raping them as children. Varano is the husband of Carol (Jordan) Varano, the oldest of the five siblings.

"He raped our whole family," Lipman said. "First he stole our hearts and then our souls and then tried to destroy us."

Additionally, Lipman filed a request for a restraining order that would prevent Varano from contacting her and her husband. She alleged that Varano and his eldest son had threatened the Lipmans' lives if they took legal action. The four siblings also moved yesterday to freeze Varano's assets in Massachusetts and Maine.

The suit seeks unspecified monetary damages from Varano. Attempts to reach Varano at his home and business yesterday were unsuccessful.

The suit alleges that Varano raped Lipman when she was between the ages of 12 and 16, Edward Jordan when he was 16 or 17, Philip Jordan between the ages of 11 and 12; and Salvetti between the ages of 11 and 16.

All four said they feel no shame about what occurred, only rancor at Varano and his lack of remorse. They said they seek restitution from him to defray the cost of the psychotherapy they need, adding they had decided to reveal their childhood violations publicly as a catharsis.

GLOBE STAFF PHOTO / PAT GREENHOUSE

Four siblings, (from left) Philip Jordan, Marilyn Salvetti, Edward W. Jordan Jr. and Marguerite Lipman, discuss their lawsuit accusing a brother-in-law of sexually abusing them as children.

"I'm doing this for my own mental health," Edward Jordan said. "I want to share my experience and reach out to other people who are hurting inside as I am. Going public is going to heal me more than anything else."

Also, they said they wanted to encourage others who had been sexually abused, especially those being abused currently, to confront the abuser as swiftly and as forcefully as possible. They said that if the first abused sibling in their family had spoken out immediately, the others would not have been abused subsequently.

Brother-in-law confronted

Over the past two years, the four siblings said they had finally revealed the molestations to each other and to their parents, and then confronted Varano.

"My father asked why I didn't come to him at the time," Salvetti said. "I said, 'Dad, in those days we didn't even talk about our period.' It wasn't something you discussed. Sex was like a taboo thing, and at the time I knew this wasn't on the up and up, but I didn't think it was a crime. I just wanted it to go away. I felt so powerless; what could I do? I was just a little kid with no power.

"Then, I read about" child molestation "several years ago and said to myself, 'Is that a crime? That happened to me.'"

Their lawyer, Laurence E. Hardoon, has hired a media consultant, former television reporter Marty Sender, who attended Thursday's interview, to help the four siblings express their message. They said that discussing their alleged abuse on radio and television talk shows would help the healing process for themselves and for others.

"The poignancy of this particular family," Hardoon said, "is that they were all siblings relatively close to each other who'd been sexually abused as children, and for 30 years never realized that they were each victims of the same family member. This illustrates the classic situation of the abuse victim who is driven into a state of isolation by the psychological and emotional damage that the abuse caused."

Hardoon, a former Middlesex assistant district attorney who founded the county's child-abuse prosecution unit, said that in at least two cases, state courts have permitted victims to extend the right to bring suit in cases of childhood sexual abuse beyond the civil statutory limit of age 21.

A legal analogy

The classic legal analogy, said Hardoon, is the surgeon who leaves a sponge in a patient's stomach. Courts have affirmed that the clock on the statute of limitations does not start ticking when the sponge was negligently left behind, but when the patient discovers the harm it has done.

"The Legislature has extended" the statute of limitations "on the criminal side; now let's do it on the civil side," he said.

The four siblings said they did not realize until recently that the psychological and emotional problems they were experiencing as adults, including low self-esteem and alcohol abuse, could be linked to the sexual abuse they say they experienced as children.

The two sisters said they had so repressed the alleged abuse by their brother-in-law that they had named him the legal guardian of their children in the event of the parents' death. They terminated the guardianship a year ago, when they realized he had abused family members.

The four siblings said they have barely spoken to Varano and his wife, their sister, and the couple's 10 children in the past year.

Added Philip Jordan: "My children don't believe it. They're appalled that something like this could have happened. My spouse said to me that she had to wonder whether I had ever done this to my children. She was scared for her children, which are my children. That hurt very much."

Section B

Domestic Violence

WORKSHOP B: DOMESTIC VIOLENCE

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Catherine E. Sullivan, Assistant District Attorney
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40 Thorndike Street
Cambridge, MA 02141
(617) 494-4077

The Commonwealth of Massachusetts
MASSACHUSETTS CAUCUS OF WOMEN LEGISLATORS
ROOM 156, STATE HOUSE
BOSTON, MA 02133
TELEPHONE 722-2266

WOMEN AND CHILDREN MURDERED IN MASSACHUSETTS IN 1992 AS A RESULT OF DOMESTIC VIOLENCE

January 26:
Misael Hernandez, Jr., 22 month old son of Wanda Cartagena of Waltham died of smoke inhalation after Wanda's boyfriend lit her house on fire.
January 29:
Pamela Watkins, 33 years old of Medford was fatally shot in the chest by her boyfriend. A 14 year old friend visiting was also shot in the chest and survived.
Kimberly Watkins, 10 years old of Medford was fatally shot in the head and neck by her mother's boyfriend.
February 7:
Gertrude Manion, 61 years old of Winchester was fatally shot by her daughter's ex-boyfriend. Her daughter, Donna was kidnapped and survived.
February 25:
Maria Milford, 48 years old of Brockton was stabbed several times in the back and left to burn in her home which was set on fire by her husband.
March 7:
Sandra Anzalone, 22 years old of Chelsea was strangled in her home by her boyfriend. She was found with her hands bound and with her 2 year old son in the home.
March 21:
Carlos Cruz, 17 year old son of Maria Dias of Lowell was fatally shot in the head by his mother's boyfriend.
April 5:
Delfina DeLeon, 28 years old of Lawrence was shot to death by her common law husband.
Rachel Serrano, 17 years old, and her brother,
Gabriel Serrano, 19 years old, were also shot to death by DeLeon's husband while they were visiting DeLeon.
April 6:
Karen Lapierre, 31 years old of Worcester was shot to death by her boyfriend.
April 12:
Karen Coughlin, 36 years old of Holden was strangled to death by her boyfriend.

1992 Average as of Tuesday, April 14th: 1 death every 9 days.
1991 Average: 1 death every 16 days.
1990 Average: 1 death every 22 days.

MASSACHUSETTS COALITION OF BATTERED WOMEN SERVICE GROUPS
107 South Street (5th floor), Boston, Massachusetts 02111 (617) 426-8492

MEMBER PROGRAMS

Alternative House
Lowell

A Safe Place
Nantucket

Casa Myrna Vazquez, Inc. and Mary Lawson Foreman House of CMW
Boston and Dorchester

Daybreak
Worcester

Elizabeth Stone House
Jamaica Plain

F.I.N.E.X. House
Dorchester

Harbor Me
Chelsea

HAWC - Help for Abused Women and Their Children
Salem

Independence House
Hyannis

Necessities/Necesidades
Northampton

NELCWIT - New England Learning Center for Women in Transition
Greenfield

New Bedford Women's Center Battered Women Project
New Bedford

New Hope, Inc.
Attleboro, Taunton, Norwood

Renewal House
Boston

Respond
Somerville

South Shore Women's Center
Plymouth

Transition House
Cambridge

Waltham Battered Women Support Committee
Waltham

Womansplace
Brockton

Womanshelter/Companeras
Holyoke

Women's Crisis Center of Greater Newburyport
Newburyport

Women's Resource Center
Lawrence Haverhill

Women's Resources
Fitchburg Gardner

Women's Services Center
Pittsfield

Women's Support Services
Martha's Vineyard

YWCA's of Western Massachusetts
Arch Springfield
New Beginnings Westfield

IN 1989

A WOMAN WAS MURDERED, AS A RESULT OF DOMESTIC VIOLENCE, EVERY 22 DAYS IN MASSACHUSETTS.....

BATTERED WOMEN'S PROGRAMS:(1.)

- Received 54,769 Hotline calls
- Sheltered 2,029 women; accompanied by 3,173 at-risk children
- Gave to 12,714 battered women Individual or Group Peer Support Services
- Aided 6,641 women obtain necessary protections from the Courts

WHEN STATE FUNDING WAS CUT FROM $5.4 MILLION TO $4.8 MILLION, THE ADVOCACY COMMUNITY WARNED THAT MORE WOMEN WOULD DIE.....

IN 1990

- STATE FUNDING REMAINED LEVEL AT $4.8 MILLION

- A DEEPENING RECESSION, AND AN EROSION OF THE COMMONWEALTH'S SAFETY NET OF SUPPORTIVE SERVICES, MADE IT MORE AND MORE DIFFICULT FOR ADVOCATES TO EDUCATE AND EMPOWER BATTERED WOMEN TO DEVELOP A SAFETY PLAN TO PROTECT THEMSELVES; AND TO REBUILD THEIR LIVES FREE FROM ON-GOING ABUSE.

- PASSAGE OF LANDMARK DOMESTIC VIOLENCE LEGISLATION GENERATED EXTENSIVE MEDIA ATTENTION ON THE ISSUE.

- MGL 209A, AS AMENDED BY CHAPTER 403 IN 1990, MANDATED THAT POLICE ARREST ON VIOLATION OF A RESTRAINING ORDER; A MANDATED STATE-WIDE POLICE POLICY DIRECTED OFFICERS TO REFER VICTIMS TO APPROPRIATE BATTERED WOMEN'S PROGRAMS

BATTERED WOMEN'S PROGRAMS:

- Received 68,133 Hotline calls
- Sheltered 2,013 women; accompanied by 3,097 at-risk children
- Gave to 12,074 battered women Individual or Group Peer Support Services
- Aided 9,361 women obtain necessary protection from the Courts.

THE MASSACHUSETTS COALITION OF BATTERED WOMEN SERVICE GROUPS SUPPORTED PASSAGE OF MGL CHAPTER 403, A COMPREHENSIVE AMENDMENT TO MGL CHAPTER 209A - THE ABUSE PREVENTION ACT, IN THE BELIEF THAT THE STATUTE WAS NECESSARY TO PROTECT UNTOLD NUMBERS OF VULNERABLE PEOPLE FROM FAMILY ABUSE.

HOWEVER, THE COALITION AND THE ADVOCACY COMMUNITY WARNED THAT:

- If adequate funding was not restored to existing Battered Women's Programs

- If the Police and Courts did not adequately implement the provisions of the new statute

and

- If the most isolated, terrorized and vulnerable battered women believed, through media stories, that the police and courts could/would protect her when she found the courage to reach out for help.

THEN MORE WOMEN AND CHILDREN WOULD DIE.

IN 1991

A WOMEN WAS MURDERED AS A RESULT OF DOMESTIC VIOLENCE EVERY 16 DAYS, SEVERAL AS THEIR CHILDREN WATCHED. TWO CHILDREN DIED WITH THEIR MOTHERS.

STATE FUNDING REMAINED LEVEL AT $4.8 MILLION

BATTERED WOMEN'S PROGRAMS:

- Received 69,016 Hotline calls
- Sheltered 1,992 Women; accompanied by 2,543 at-risk children(2.)
- Gave to 8,718 battered women Individual or Group Peer Support Services
- Aided 9,416 women obtain necessary protections from the Courts

AND

- Are called on more and more to provide training and technical assistance to police, courts, social service agencies, and hospitals - to work toward an integrated community response.

BY APRIL 1992

A WOMAN WAS MURDERED, AS A RESULT OF DOMESTIC VIOLENCE, EVERY 9 DAYS. FIVE CHILDREN DIED AT THE HANDS OF THEIR MOTHER'S BATTERER; TWO MORE WERE WOUNDED. ONE MOTHER, AND TWO NEIGHBORHOOD FRIENDS OF BATTERED WOMEN ALSO LOST THEIR LIVES.

- The Governor declares a State of Emergency and establishes, by Executive Order, a Domestic Violence Policy Commission

- The Caucus of Women Legislators takes leadership in holding hearings and proposing appropriate allocations and legislation.

- Lt. Gov. Cellucci pledges the administration's assistance in finding funds to restore the stability of the infrastructure of existing Battered Women's Programs

THE MASSACHUSETTS COALITION OF BATTERED WOMEN SERVICE GROUPS WILL LOOK FOR LEADERSHIP AND ASSISTANCE TO THE CAUCUS OF WOMEN LEGISLATORS AND THE LIEUTENANT GOVERNOR TO SUPPORT FUNDING TO CREATE AN INTEGRATED, COMPREHENSIVE EMERGENCY RESPONSE SYSTEM - WHICH WILL PULL TOGETHER THE EFFORTS OF BATTERED WOMEN'S PROGRAMS, LAW ENFORCEMENT, CRIMINAL JUSTICE AND SOCIAL SERVICES SYSTEMS ON A STATE-WIDE AND COMMUNITY-BASED LEVEL.

N.B.
(1.) Statistics from 27 member programs of MCBWSG only.
(2.) While approximately the same number of women have been sheltered in available beds for the past three years, the number of children sheltered dropped significantly. We believe that, with the absence of available 707 certificates and the lack of affordable housing, some battered women are choosing to remain home and suffer the abuse rather than risk homelessness for themselves and their children

The "Stalking" Bill

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT REGARDING A CRIME OF STALKING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

(a) Whoever willfully, maliciously, and repeatedly follows or harasses another person and who makes a threat with the intent to place that person in imminent fear of death or serious bodily injury shall be punished by imprisonment in the state prison for not more than five years or by a fine or not more than one thousand dollars ($1,000), or imprisonment in the house of correction for not more than two and one-half years or both.

(b) Whoever commits the crime of stalking in violation of a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to sections eighteen, thirty-four B, or thirty-four C of chapter two hundred and eight; or section thirty-two of chapter two hundred and nine; or sections three, four, or five of chapter two hundred and nine A; or section fifteen or twenty of chapter two hundred and nine C; or a temporary restraining order or preliminary or permanent injunction issued by the Superior Court, shall be punished by imprisonment in state prison for not less than one year and not more than five years.

A prosecution commenced hereunder shall not be placed on file or continued without a finding, and the sentence imposed upon a person convicted of violating any provision of this section shall not be reduced to less than the mandatory minimum term of imprisonment as established herein, nor shall said sentence of imprisonment imposed upon any person be suspended or reduced until such person shall have served said mandatory term of imprisonment.

A person convicted of violating any provision of this section shall not, until she or he shall have served the mandatory minimum term of imprisonment established herein, be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct under sections 129, 129C, and 129D of Chapter 127; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to said offender a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of next of kin or spouse; to visit a critically ill close relative or spouse; or to obtain emergency medical services unavailable at said institution. The provisions of section thirty-one of chapter two hundred and seventy-nine shall not apply to any person convicted of violating any provision of this section. The provisions of section eighty-seven of chapter two hundred seventy-six relating to the power of the court to place certain offenders on probation shall not apply to any person seventeen years of age or over charged with a violation of this subsection.

(c) Whoever, after having been convicted of the crime of stalking, commits a second or subsequent such crime shall be punished by imprisonment in state prision for not less than two years and not more than ten years.

A prosecution commenced hereunder shall not be placed on file or continued without a finding, and the sentence imposed upon a person convicted of violating any provision of this section shall not be reduced to less than the mandatory minimum term of imprisonment as established herein, nor shall said sentence of imprisonment imposed upon any person be suspended or reduced until such person shall have served said mandatory term of imprisonment.

A person convicted of violating any provision of this section shall not, until she or he shall have served the mandatory minimum term of imprisonment established herein, be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct under sections 129, 129C, and 129D of Chapter 127; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to said offender a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of next of kin or spouse; to visit a critically ill close relative or spouse; or to obtain emergency medical services unavailable at said institution. The provisions of

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section thirty-one of chapter two hundred and seventy-nine shall not apply to any person convicted of violating any provision of this section. The provisions of section eighty-seven of chapter two hundred seventy-six relating to the power of the court to place certain offenders on probation shall not apply to any person seventeen years of age or over charged with a violation of this subsection.

(d) For the purposes of this section, "harasses" means a knowing and willful pattern of conduct or series of acts over a period of time, however short, directed at a specific person which seriously alarms or annoys the person. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress to the person. Constitutionally protected activity is not included within the meaning of "course of conduct."

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SENATE . . . . . No. 1493

The Commonwealth of Massachusetts

SENATE, April 16, 1992.

The committee on Criminal Justice, to whom was referred the petition (accompanied by bill, Senate, No. 126) of James P. Jajuga, Thomas G. Palumbo, Charles E. Shannon, William R. Keating, Larry F. Giordano and Paul E. Caron for legislation relative to penalties for the crime of stalking; the petition (accompanied by bill, Senate, No. 152) of Edward M. Merrick, Jr., John P. Flynn and William R. Keating for legislation relative to arrests by police officers for violations of abuse orders; and the petition (accompanied by bill, House, No. 4638) of Mary Jeanette Murray for legislation to establish "stalking" as a crime against the person, reports the accompanying bill (Senate, No. 1493).

For the committee,

PAUL D. HAROLD.

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Boston Herald 3-31-92

Officials urge OK for anti-stalker bill

By BEVERLY FORD

A bill that would make it a crime to stalk a victim won the backing of law enforcement officials yesterday, who said the measure would help combat the rise in domestic violence.

"We are focusing on the obsessive, repeat offender who cannot be dealt with in any other way," Attorney General L. Scott Harshbarger said in addressing the issue before the Legislature's Criminal Justice Committee.

Sponsored by Sen. James P. Jajuga (D-Methuen), the bill is primarily aimed at individuals who repeatedly violate restraining orders and continue to follow, threaten or abuse a victim.

Under the measure, a person convicted of stalking would face a mandatory one-year sentence and up to 10 years in prison for a second offense in cases where a restraining order is in effect.

Harshbarger said that although current law allows an individual to be charged with a misdemeanor for harassing behavior, the bill would "fill a void" in cases where there is continuous, escalating and dangerous conduct.

He said the bill would not only make stalking a crime punishable by inprisonment, it also would make it easier for prosecutors to press charges in stalking cases. Currently, a prosecutor must prove each act of harassment is a separate and distinct misdemeanor. Under the new bill, each act would be seen as part of the pattern of stalking.

Essex County District Attorney Kevin Burke also endorsed the measure along with Rep. Mary Jane Gibson (D-Belmont), who spoke on behalf of the Legislature's women's caucus.

The stalking bill was one of more than 20 tough anti-crime bills considered by the Legislature's Criminal Justice Committee yesterday.

Other bills included measures to toughen state laws prohibiting assault and battery on children, the elderly and disabled individuals, and laws against sexual abuse or neglect of children.

Also up for consideration was a bill that would make it a crime to deliberately try to infect a law enforcement official or a crime victim with the HIV virus that causes AIDS.

Hampden County District Attorney William Bennett, who testified on behalf of that measure, urged that the bill be expanded to allow for AIDS tests to be performed on sex offenders.

Two police officers who were exposed to the HIV virus in the line of duty said it would have eased their anguish if their assailants had been forced to submit to AIDS testing.

Another measure under study would make it a criminal offense for doctors and therapists to engage in sexual relations with clients.

In the mind of a stalker

The man who killed actress Rebecca Schaeffer is a symbol of a spreading national menace

On the morning of the last free day of his life in 1989, 19-year-old Robert Bardo ordered onion rings and cheesecake at a Los Angeles diner. He nodded over his food, then went into the restroom. Inside, he pulled a .357 Magnum pistol out of a red and white plastic grocery bag and put one more hollow-point cartridge into its six-round cylinder, fully loading the gun.

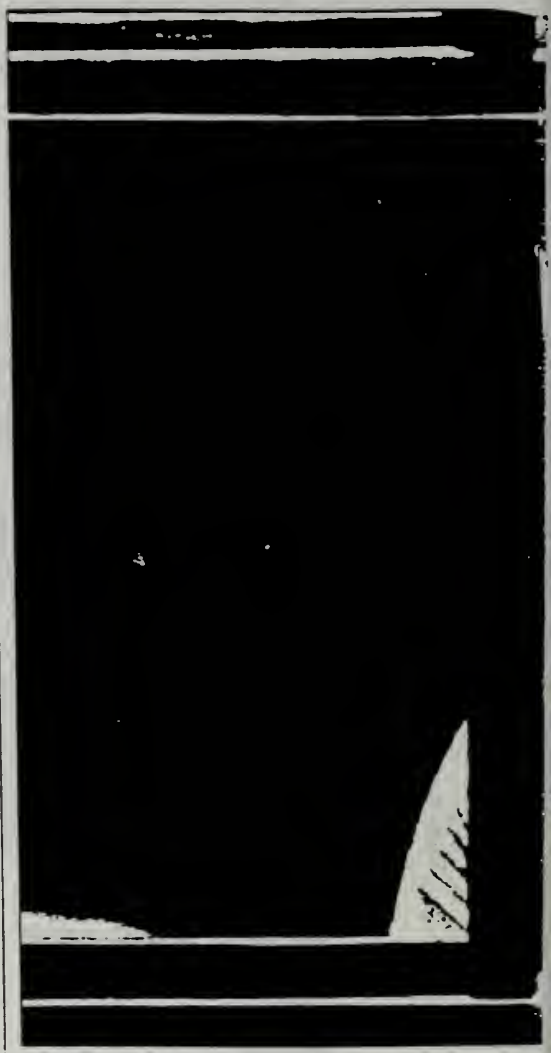
Carrying the sack, he walked a few blocks in brilliant sunshine to the doorstep of TV actress Rebecca Schaeffer. Bardo had been there an hour before, when he had a one-minute conversation with the young star and handed her a note. "Take care, take care," she had said as she quickly closed the glass security door and backed down the hallway. On his second visit, as Schaeffer opened the door, Bardo killed her with one shot in the chest and ran away. In December 1991, after a Los Angeles Superior Court trial, Bardo was sentenced to life in prison without parole. And his case became a frightening symbol of a growing phenomenon in the past decade – stalking.

Besides its obvious connection to violence, stalking raises crucial public-policy questions. Stalkers seem to slip between the cracks of law-enforcement and mental-health agencies – neither of those institutions has the responsibility or capacity for identifying stalkers or protecting victims. In most states, police cannot act unless there is an overt threat, even if they recognize danger signals, while civil libertarians object to law-enforcement officials' maintaining files on the mentally ill.

Stalking is now commonplace in many high-profile locales. There have been dozens of other recent cases spotlighting entertainment celebrities, sports figures, broadcasters and politicians. A surprisingly large number of Hollywood stars have been subject to "strange, unwanted attention," according to Park Dietz, a California psychiatrist recognized as an expert on stalking. Congressional officials say the number of threats to members rose to 566 last year from 394 in 1987.

The victim. *Schaeffer starred on "My Sister Sam"*

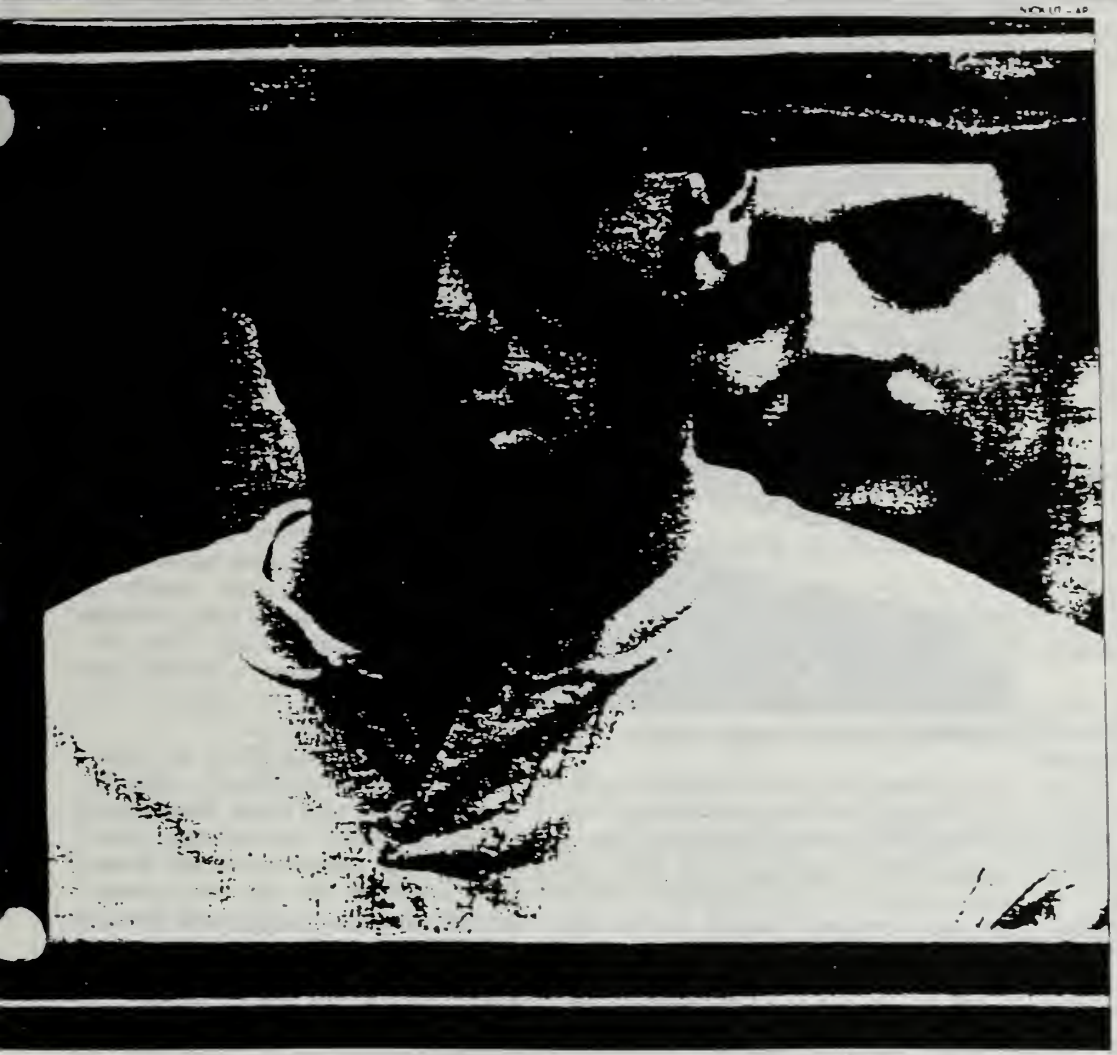
But stalking cases also have involved thousands of ordinary Americans otherwise anonymous except to their pursuers. One study estimates that 1 in 20 adults will be stalked in her or his lifetime, and other researchers suggest that up to 200,000 people exhibit a stalker's traits. Usually, the harassment constitutes little more than annoyance, such as repeated phone calls or unsolicited letters. The worst episodes, however, result in the death or injury of the person being stalked. And the threat has become so widespread that California became the first state to enact an antistalking law in 1990 after a grotesque quadruple murder. Several other states are considering similar measures.



Portrait of a predator. *Robert Bardo during his*

Who they are. Stalkers range from coldblooded killers to lovesick teens, huddled beneath an umbrella of psychological syndromes: paranoia, erotomania, manic depression and schizophrenia. To some degree, all are mentally or emotionally disturbed; many share a family history of similar illness.

No one knows for sure what causes a person to become a stalker, though theories abound. Gavin de Becker, an authority on protecting celebrities and politicians, has compiled a database of some 9,000 potential and actual stalkers, up from 1,500 names in 1985. His research reveals several common characteristics, which he calls pre-incident indicators. Culled from behavioral records and some 200,000 letters, the indicators include things like references to obsessive love, weapons, death, suicide, religious themes and a common destiny with the



al, in which he was convicted of gunning down Rebecca Schaeffer after becoming obsessed with her.

stalked figure. There is no single stalker profile. But many stalkers share certain behavioral traits: an intense interest in the media, an inability to develop meaningful relationships, a history of unsuccessful efforts to establish an identity and a desire for recognition and attention.

Robert Bardo was an archetypal stalker, who, in the words of one of his high-school teachers, "was a time bomb waiting to explode." He was the youngest of seven children; his father was a noncommissioned officer in the Air Force who met his mother, a Korean resident of Japan, at Yokota Air Force Base. The family moved frequently before winding up in Tucson in 1983, when he was 13.

The first signs of trouble began months later, after Bardo visited a sister who was a topless dancer and bar waitress in Florida. At the end of the year, he stole $140 from his mother's purse and took a bus to Maine, searching for Samantha Smith, a teenager who became famous by writing to then Soviet President Mikhail Gorbachev. She had also replied to a letter Bardo wrote her. Unable to locate her, he was picked up by juvenile authorities and held briefly before being returned to his family. While in Maine, he stabbed himself in the wrist with a pen.

Outcast. In junior high school, he was a straight-A student but a social outcast. He never talked to other students, preferring to stand alone, nodding, on the school sidewalks. He began writing letters, often three times a day, to one of his teachers, signing them "Scarface," "Dirty Harry Callahan" and "James Bond." In the letters, which he wrote while listening to the radio, he said he would have to kill her and others, and he also wrote of suicide.

Although school officials told his parents he needed psychiatric help, the parents denied it and, except for one week at Palo Verde Hospital, refused to enroll him in counseling. In one form sent home for the parents to fill out, Bardo himself wrote: "Help. This house is hell. I'm going to run away again. I can't handle it anymore. Please help. Fast."

At Pueblo High School, Bardo remained both an A student and a loner. After he sent his English teacher a 10-page letter vowing to kill himself, he was temporarily removed to a foster home. Again, his parents denied that he was disturbed, and the boy was returned home. His last hospitalization came for a month in the summer of 1985, when he was diagnosed as "severely emotionally handicapped" and coming from a "pathological and dysfunctional family." He was described as a "model patient, eager for all therapy," who discouraged other adolescent patients from using street drugs. Despite the apparent progress, his parents took him out of the hospital, and a few weeks later, he dropped out of high school. That was 1985.

"My mistake was dropping out of high school," Bardo said six years later to a visitor at the Los Angeles County Jail. "I was isolated. I didn't have any friends, never had a girlfriend. I felt alienated, but I liked watching movies or TV. That's when I lost my place."

Bardo doesn't like to talk about his home life, other than to say, "I got my ass kicked a lot." But Dietz, the psychiatrist who testified at Bardo's trial, and John Stalberg, another psychiatrist who interviewed Bardo three times, believe Bardo's family contributed substantially to his problems. They suggest that his father is an alcoholic, his mother displays paranoid symptoms and that at least one older brother physically abused him, making him drink urine and forcing him to shoplift. Bardo's father said, "We've been staying away from the press," and declined further comment about these allegations.

After dropping out of school, Bardo became, in his own words, a "geek who worked at Jack in the Box." Every morning before 5, he walked 2 miles to the fast-food restaurant, where he was employed as a janitor. Other than sleeping 15 hours a day, his only activities were trying to learn to play the guitar, listening to music and watching television. He was never in trouble with the law and says he never took illegal drugs or drank alcohol. He never made more than $3,000 a year, never had a date and

never lost his virginity—to psychoanalytic terms. Bardo suffered from dysphoria, intolerably unpleasant emotions. "He began to live a fantasy life," says Stalberg, "to give him some sort of relief from the mental pain and torture."

"I worshiped her." The fantasy life included near-total absorption in the music of Bruce Springsteen, U2, Guns 'n' Roses, the Beatles and other groups. In August 1986, it began to include Rebecca Schaeffer. "She just came into my life at the right time, when I was 16," he recalls. "She was bright, beautiful, spunky—I was impressed with her innocence. She was like a goddess for me, an icon. I was an atheist out there. I worshiped her."

After watching the actress on "My Sister Sam," Bardo began writing her. She sent him one handwritten postcard, saying his first letter was "the nicest, most real" she had received, drawing a peace symbol and heart on the card and signing it "Love, Rebecca."

Not long after receiving the card, Bardo wrote in his diary, "When I think about her I feel that I want to become famous and impress her." Below, on the same page, he wrote: "How do you I [*sic*] know if the table and paper before me is just a field of electronic pulses. How can I be sure if this is reality?"

He traveled in June 1987 to the Burbank studios where the series was filmed, carrying a large teddy bear and a letter for Schaeffer. Security guards rebuffed him. He returned a month later, this time carrying a knife ("because I thought she was turning arrogant"). But he again failed to meet Schaeffer and went back to Arizona.

For much of 1988, Bardo forgot about the actress, shifting his fixation to singers Debbie Gibson and Tiffany. In mid-1989, though, Schaeffer acted in "Scenes From the Class Struggle in Beverly Hills," a film described in promotions as "just another weekend of shameless sexual adventure, ill-fated romance and accidental death." The actress appeared in one scene in bed with an actor, incensing Bardo, who believed she had become just "another Hollywood whore."

The denouement came quickly. After reading in *People* magazine how Arthur Jackson, a stalker who stabbed actress Theresa Saldana numerous times, had obtained her address, Bardo paid $250 to a private detective, who learned Schaeffer's address from California's motor vehicle department. He got his older brother to buy him a gun (Arizona requires firearms purchasers to be 21), put it in a plastic bag with a letter to Schaeffer. The bag also contained a U2

EVORK DJANSEZIAN – AP

Predator II. *Arthur Jackson attacked Theresa Saldana.*

tape (whose song "Exit" contains the lyrics, "Deeper into the black/Deeper into the white/Pistol weighing heavy") and a copy of "The Catcher in the Rye," the book carried by John Hinckley Jr. when he shot President Reagan. In his shirt pocket, Bardo carried hollow-point cartridges, which explode on impact.

The murder. He took an overnight bus to Los Angeles Union Station and a local bus to the Fairfax district where Schaeffer lived. After walking aimlessly for 90 minutes, he went to her apartment and pushed her buzzer; she came down and he handed her the letter. Then, he went to the diner, called his sister in Tennessee (who told him to leave immediately and come there) and returned to Schaeffer's door.

D. FINEMAN – SYGMA

Survived. *Saldana was brutally stabbed.*

After the shooting, Bardo hopped a bus to Tucson and was spotted wandering among the cars on a freeway ramp by a police officer. After he told the officer that he had killed Rebecca Schaeffer, he was arrested, extradited to Los Angeles and held for trial. The death sentence was ruled out when his defense attorney, Stephen Galindo, waived Bardo's right to a jury trial. He was convicted in October 1991 of first-degree murder. Bardo didn't deny the prosecution's version of events, except to claim that he didn't ambush Schaeffer. Judge Dino Fulgoni found otherwise and imposed the toughest available sentence.

Marcia Clark, the attorney who prosecuted Bardo's case, believes the ease with which Bardo could contact Schaeffer was her main attraction for him. Bardo patterned himself after assassins, she says, not romancers. She downplays suggestions Bardo is mentally ill, arguing that he is a "con man" who is adept at persuading people to believe "his poor little me" stories. She also asserts that Bardo killed Schaeffer solely for the publicity: "He wanted to be famous."

Bardo, now 22, says he understands the fantasy into which he retreated. "I don't think I'm insane," he says. "I'm just emotional. If it wasn't for my obsession, I'd be law-abiding. But Hollywood is a very seductive place. There are a lot of lonely people out there seduced by the glamour."

Even today, however, Bardo can't completely let go of the young woman he killed. In Los Angeles County Jail, he insists to a visitor that his name and phone number were in Schaeffer's appointment book the day she died. The jail interview room phones suddenly go dead because of a mechanical glitch, and, one wrist manacled to a steel bar, Bardo writes with a stubby pencil on legal paper. "She was going to call me," and holds it up to the protective glass.

"How do you know?" the visitor writes back.

Bardo scribbles furiously: "Why else would she put it in there?" ■

BY MIKE THARP IN LOS ANGELES

SENATE . . . . . No. 753

By Mr. Jajuga, a petition (accompanied by bill, Senate, No. 753) of James P. Jajuga, the Massachusetts Chiefs of Police Association, by Paul L. Doherty, executive director, Thomas G. Palumbo, Charles E. Shannon, Brian S. Dempsey, Larry F. Giordano, James M. Barry and Paul E. Caron for legislation to further protect victims of domestic abuse. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT AMENDING CHAPTER 209A TO FURTHER PROTECT VICTIMS OF DOMESTIC ABUSE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 209A is hereby amended by inserting immediately following paragraph (i) the following new paragraph: —

(j) ordering the police to search for, take possession of and remove to the police station or some other suitable place for storage, any weapon(s), handgun(s), or firearm(s) located on the premises where domestic violence has occurred or is or was in danger of occurring. The court shall give the owner of the weapon(s), handgun(s) or firearm(s) an opportunity to be heard on the question of continuing the order of confiscation within fourteen (14) days of the issuance of such order if said order was issued on an emergency basis pursuant to the provisions of section 5 of Chapter 209A.

Notwithstanding the provisions of any general or special law to the contrary, a police chief or other licensing authority may revoke any Firearms Identification Card and/or License to Carry issued pursuant to sections one hundred and forty, one hundred and twenty-nine B, and/or one hundred and thirty-one, respectively, of Chapter 140 of the General Laws, and any police officers responsing to the scene of a domestic abuse incident may search the premises, take custody of and remove to the police station or some other suitable place for storage until further order of a court, a weapon, handgun or firearm, whenever there is probable cause to believe that a weapon, handgun or firearm was used or threatened to be used in connection with a domestic abuse offense.

The Commonwealth of Massachusetts
MASSACHUSETTS CAUCUS OF WOMEN LEGISLATORS
ROOM 156, STATE HOUSE
BOSTON, MA 02133
TELEPHONE 722-2266

23 March 1992

ALERT

TO: Caucus Members

FROM: Tracy Wadsworth, Acting Executive Director

RE: COMMITTEE HEARING ON S.753 - AN ACT AMENDING CHAPTER 209A TO FURTHER PROTECT VICTIMS OF DOMESTIC ABUSE. *A Caucus Endorsed* bill.

On Wednesday, March 25th, S.753 will be heard at 1pm in Room 136. This bill was filed by Paul Doherty, Executive Director of the MA Police Chiefs Association, and co-sponsored by Sen. Jajuga and Rep. Caron. After our public hearing on restraining orders on March 2nd, the Caucus endorsed this piece of legislation because of its potential to further protect victims of domestic abuse.

This bill refers to Section 3 of 209A. Section 3 lists the orders which may be included in a complaint filed by a person suffering from abuse from an adult or minor family or household member. These orders currently include, but are *"not limited to"* the following orders: a) ordering the defendant to refrain from abusing the plaintiff, b) ordering the defendant to refrain from contacting the plaintiff, c) ordering the defendant to vacate the premises or workplace, d) awarding the plaintiff temporary custody of minor children, e) ordering the defendant to pay temporary support for the plaintiff or any child in the plaintiff's custody or both, f) ordering the defendant to pay any out-of-pocket expenses suffered as a direct result of the abuse, g) ordering the plaintiff's address to be impounded, h) ordering the defendant to refrain from abusing or contacting the plaintiff's child, i) the judge may recommend to the defendant that the defendant attend a recognized batterer's treatment program.

S.753 gives statutory clarification to the *"not limited to"* clause of this section as it pertains to search and removal of weapons located on the premises where domestic violence has occurred or was in danger of ocurring by adding the following: *(j) ordering the police to search for, take possession of and remove to the police station or some other suitable place for storage, any weapon(s), handgun(s), or firearm(s) located on the premises where domestic violence has ocurred or was in danger of occurring.*

Currently, Ch 209A states that *"Whenever any law officer has reason to believe that a family or household member has been abused, such officer shall use all reasonable means to prevent further abuse."* "All reasonable means" is very vague and needs to be clarified so that responding officers can proceed with searching and siezing such weapons with confidence.

S.753 also specifies that *"any police officer responding to the scene of a domestic abuse incident may search the premises, take custody of and remove to the police station or some other suitable place for storage until further order of a court, a weapon, handgun or firearm whenever there is probable cause to believe that a weapon, handgun or firearm was used or threatened to be used in connection with a domestic abuse offense."* The courts will then be required to hear the question of continuing such an order within 14 days if it was obtained on an emergency basis.

S.753 also grants Police Chiefs the authority to revoke a FID and/or License to Carry. Although this is expected to be protested by the Gunowners Action League as an attack on persons holding FIDs or Licenses to Carry, the MA Police Chiefs Association believes this component is critical to protect victims of domestic abuse.

HOUSE . . . . . No. 2109

By Mrs. Gray of Framingham, petition of Barbara F. Gray, Pamela P. Resor, Carol C. Cleven and Sally P. Kerans for legislation to establish the battered person syndrome defense and providing for special appeal considerations for women convicted of killing batterers. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT ESTABLISHING THE BATTERED PERSON SYNDROME DEFENSE AND PROVIDING FOR SPECIAL APPEAL CONSIDERATIONS FOR WOMEN CONVICTED OF KILLING THEIR BATTERERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 278 of the Massachusetts General Laws as appearing in the 1990 Official Edition is hereby amended by adding the following new section: —

Section 36. Battered Person Syndrome Defense.

(A) It shall be a defense to murder or any prosecution under sections thirteen, thirteen A, fourteen, fifteen A, sixteen, or eighteen A of Chapter Two Hundred Sixty-Five of the General Laws, that the defendant acted under the influence of the "Battered Person Syndrome".

(B) Expert testimony shall be admitted to establish the prevalence of the Battered Person Syndrome upon the defendant.

(C) A right of appeal shall exist for a person convicted of murder or any offense under sections thirteen, thirteen A, fourteen, fifteen, fifteen A, sixteen, or eighteen A of Chapter Two Hundred Sixty-five of the General Laws, where there is probable cause to believe that the Battered Person Syndrome influenced the act for which the defendant was convicted and that evidence of the Battered Person Syndrome was not admitted at trial.

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HOUSE . . . . . No. 3408

By Ms. Kerans of Danvers, petition of Sally P. Kerans and other members of the House for legislation to provide for the admissibility of the "battered women's syndrome" in criminal court proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT TO PROVIDE FOR THE ADMISSIBILITY OF THE "BATTERED WOMEN'S SYNDROME" IN CRIMINAL PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 233 of the General Laws as most recently appearing in the 1990 Official Edition is hereby amended by adding a new section: —

Section 23E. In any proseuction for murder, or any offense under sections thirteen, thirteen A, fourteen, fifteen, fifteen A, sixteen or eighteen A of Chapter Two Hundred Sixty-Five of the General Laws, expert testimony shall be admissible on the issues of the reasonableness of a defendant's apprehension that death or serious bodily injury was imminent; the reasonableness of a defendant's belief that she had availed herself of all available means to avoid physical combat; and the reasonableness of a defendant's perception of the amount of force necessary to deal with the perceived threat. All evidence of prior physical. sexual and emotional abuse of a defendant shall be admissible.

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The Commonwealth of Massachusetts

House of Representatives

Committee on Ways and Means

STATE HOUSE, BOSTON 02133

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Committee on Ways and Means
Committee on Rules
Divorce Commission
House Chairperson
Local Aid Commission
School Bus Safety Commission
Parenting Leave Commission
Special Commission on
Growth and Development
Special Commission on
Temporary Disability and
Dependent Care Insurance

FACT SHEET

TITLE: AN ACT TO PROVIDE FOR THE ADMISSIBILTY OF THE "BATTERED PERSON'S SYNDROME" IN CRIMINAL COURT

BILL NO: H-2109

COMMITTEE:

SPONSOR: REP. BARBARA E. GRAY

CO-SPONSORS:

PUBLIC HEARING:

PRESENT LAW: There is no present law that allows for the admissibilty for the Battered Person's Defence Syndrome as a legal defense in the criminal court.

PROPOSAL. This bill will create Section 36 of Chapter 278 of the MGL and will allow for Battered Person's Syndrome to be a legal defense. The bill will also allow the defendant to appeal on the basis of Battered Person's Syndrome for any of the following crimes:

1) manslughter
2) assault and battery
3) mayhem
4) assault with the intent to murder and maim
5) assault and battery with a dangerous weapon
6) attempt to murder
7) assault with the intent to rob or murder

PURPOSE This legislation will enable Battered Person's Syndrome to be used as a legal defense. Battered Person's Syndrome is a clinically proven disease that makes a person who has been

battered unable to take control of their abusive situation and therefore may cause irrational behavior.

Many women have been put in jail for fighting back against their abusers. There are currently 10 women in MCI-Framingham who are serving prison sentences ranging from 8 years to life because they took action against their abusers. These women have been convicted of manslaughter and murder and were not allowed to admit Battered Person's Syndrome in their defense testimony.

In a recent case, 25 Mass App. 63 514 Commonwealth v. Moore, expert testimony on Battered Person's Syndrome was excluded on the grounds that it was irrelevant. In this case the defendant claimed that she had not committed the act, thus failing to raise self-defense and thus negating the admissibilty of Battered Person's Syndrome. The acceptance of Battered Person's Syndrome would establish a framework for its victims as well as to help achieve favorable conditions in plea bargaining.

OTHER STATES:

* Ohio Governor F. Celeste pardoned 25 women convicted of killing or assaulting their abusive husbands or partners.

* 14 states and the District of Columbia now require police to report all domestic violence cases.

* Maryland, 1991 bill provided that women, who killed a spouse or boyfriend and were victims of repeated abuse, could raise abuse as part of their defense. Recently, the sentences of eight women were commuted by the governor of Maryland.

* The Texas legislature passed a law in 1991 directing the governor to review cases involving domestic abuse homicide.

SUMMARY

House Bill No. 5366 "An Act to Ensure the Safety of the Public and the Appearance of Defendants in Criminal Matters"

Current Law: Chapter 276, §58

Current Massachusetts law provides that the sole purpose of bail at defendants initial appearance is to assure the defendant's appearance at trial.

Summary of Bill:

This bill would establish a new bail system and process in Massachusetts which, among other things, would permit and require that the court consider not only the risk of flight but also the danger to the community posed by a defendant, in the setting of bail. Moreover, it would permit the detention of arrestees charged with certain serious crimes, including violations of restraining orders under chapter 209A, if the Commonwealth can demonstrate after an adversary hearing that no release conditions will reasonably assure either the appearance of the default at trial or the safety of any other person or the community.

The bill would prevent an individual who is arrested for certain serious felonies or violations of restraining orders under chapter 209A or individuals who are arrested while on parole, probation or on pretrial release for a felony, or against whom a warrant for arrest has been issued by the superior court, from being released from the police station on personal recognizance or bail until the court has had an opportunity to consider fully the question of bail at arrestee's initial appearance.

Once the defendant is brought to court, the judicial officer after an appropriate hearing, may select between one of four courses of action. She may: (1) release the defendant on personal recognizance or on any of a list of conditions of release including limitation on travel, house arrest, treatment programs for drugs or alcohol, or obtaining employment; (2) release the defendant on the condition that the defendant meet financial bail conditions such as a cash deposit, surety or collateral bond; (3) keep the defendant in custody for failure to meet bail conditions; or (4) decide to hold a detention hearing to determine if the defendant should be detained without bail.

Temporary detention (up to five working days) may also be ordered so that appropriate law enforcement authorities and governmental agencies can be notified to take action if the defendant is arrested for violating a restraining order issued

under chapter 209A; or if he is arrested while out on release pending trial; or pending the imposition or execution of a sentence; or while on probation or parole for any felony offense; or if he is not a citizen or lawful resident of the United States.

Upon the motion of the Commonwealth, the judicial officer shall hold a detention hearing in a case that involves a crime of violence, which includes within its definition a violation of a restraining order, an offense for which the maximum sentence is life imprisonment or death, narcotics trafficking offenses, or if the defendant has previously been convicted of two or more serious offenses. In addition, upon motion of the Commonwealth or the judicial officer's own motion, a detention hearing must be held where there is a serious risk that the defendant will flee or will obstruct justice or threaten or intimidate a prospective witness or juror.

In order for a defendant to be held based upon dangerousness, the Commonwealth must prove by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community. In making that determination the court may consider the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's character, family ties, employment, financial resources, length of residence in the community, fraudulent use of an alias, community ties, past conduct or criminal history; whether defendant committed the offense while on probation, parole or release pending trial or disposition; or the nature and seriousness of the danger the defendant poses to any other individual or the community.

The legislation protects the rights of arrestees by providing the detention hearing be held promptly and that the defendant be entitled to counsel and to present evidence at the detention hearing. If the judicial officer finds that no conditions of release can reasonably assure the safety of any other person or the community, he must state his findings of fact and, as stated above, support his conclusions by clear and convincing evidence. Finally, the legislation requires that should the court order detention, the detainee is entitled to expedited appellate review.

This bill also makes it a separate crime to commit an offense while out on bail, for which a consecutive sentence of up to ten years may be imposed. Finally, the punishment for a person convicted of failing to appear after being released on bail or personal recognizance is increased to a maximum of one year for a misdemeanor and to a maximum of five years in the case of a felony which sentence shall be consecutive to any other sentence of imprisonment.

SENATE . . . . . No. 152

By Mr. Keating, petition (accompanied by bill, Senate, No. 152) of Edward M. Merrick, Jr., John P. Flynn and William R. Keating for legislation relative to arrests by police officers for violations of abuse orders. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO ARRESTS FOR CHAPTER 209A ABUSE ORDERS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 6, of Chapter 209A of the General Laws is hereby amended by adding at the end of subparagraph (7), the following sentence: Arrests for violations of said court orders may be made by any police officer employed by the Commonwealth, or its political sub-divisions, regardless of the venue of the offense.

SENATE . . . . . No. 750

By Mrs. Hicks, a petition (accompanied by bill, Senate, No. 750) of Lucile P. Hicks, Marc D. Draisen, Carol C. Cleven and Barbara Hildt for legislation to broaden the court's power to order treatment for defendants accused of abuse. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT TO FURTHER DEFINE BATTERER'S TREATMENT CANDIDATES

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

The third paragraph of Chapter 209A, Section 7 of the 1990 Official Edition of the M.G.L. as amended by Chapter 403 Section 8 of the Acts of 1990, is hereby amended by striking the sentence "Where the defendant has no prior record of any crime of violence and where the court believes, after evaluation by a certified or provisionally certified batterer's treatment program, that the defendant is amenable to treatment, the court may, in addition to any other penalty, order appropriate treatment as specified in this section." and inserting in place thereof the following sentence: —

Where the court believes, after evaluation by a certified or provisionally certified batterer's treatment program, that the defendant is amenable to treatment, the court may, in addition to any other penalty, order appropriate treatment as specificed in this section.

SENATE . . . . . No. 825

By Mr. LoPresti, a petition (accompanied by bill, Senate, No. 825) of Michael LoPresti, Jr., Mary C. Fitzpatrick, Edward P. Kirby and David H. Locke for legislation to improve the administration of the abuse protection law. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT IMPROVING ADMINISTRATION OF THE ABUSE PREVENTION LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 5 of Chapter 209A of the General Laws as most recently amended Chapter 403 of the Acts of 1990 is further amended by striking the first sentence and inserting in place thereof the following sentence: —

When the court is closed for business, any justice of the superior, probate and family, district or Boston municipal courts or a clerk magistrate, assistant clerk magistrate, register or assistant register of any of those court departments may grant relief to the plaintiff as provided under section four if the plaintiff demonstrates a substantial likelihood of immediate danger of abuse. Should the clerk or the register fail to grant the application for relief, the application may be presented to a justice of the trial court.

SENATE . . . . . No. 842

By Ms. Melconian, a petition (accompanied by bill, Senate, No. 842) of Linda J. Melconian for legislation relative to emergency restraining orders. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO EMERGENCY RESTRAINING ORDERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 209A of the General Laws, as most recently amended by Chapter 403 of the Acts of 1990 is hereby further amended by adding the following paragraph at the end of Section 5:

"Notwithstanding the foregoing, the on-call justice from the Judicial Response System shall not be telephoned for an emergency restraining order when the defendant is under arrest, and the police department shall not release such defendant from custody on bail without first serving such defendant with a notice containing the following language in conspicuous type: 'Pursuant to Massachusetts General Laws Chapter 209A, an Emergency Restraining Order is in force against you, and you are ordered to refrain from abusing the complainant, to stay away from the complainant's residence, and to have no contact with said complainant. This Emergency Restraining Order will be reviewed at (insert date and time of next court date) at the (insert name and address of court) and your failure to appear may result in the restraining order being placed in force for a period of one

THE ABUSE PREVENTION ACT: CHAPTER 209A

I. Chapter 209A of the General Laws, known as the Abuse Prevention Act, was signed into law in July 1978 and substantially amended in 1983. The legislation creates a statutory framework designed to prevent and handle cases of domestic violence. In 1986, Section One was again amended, by emergency act, to expand the definition of "family or household member." Section Six was amended in 1987 to increase the arrest powers of the police. Further substantial revisions were made to Chapter 209A in 1990. These 1990 amendments went into effect on January 31, 1991.

In general, chapter 209A represents a strong statement of public policy: domestic violence is a crime; it is not to be considered simply as a matter of personal family business. Law enforcement personnel play a key role in the implementation of this policy. Police are most likely to be called upon to intervene when domestic violence occurs and therefore, for most victims, police officers are their first contact with the criminal justice system. These materials describe the duties and obligations police have under c. 209A.

Prepared by the Office of Attorney General Harshbarger for a Forum on Domestic Violence and Elder Abuse, October 24, 1991.

II. STATUTORY OVERVIEW

Chapter 209A contains nine sections. The most important sections from the point of view of law enforcement personnel are sections six and seven as these sections deal specifically with the obligations c. 209A imposes on the police. Nevertheless, it is helpful to be familiar with all aspects of c. 209A to be able to provide accurate and complete information to victims.

SECTION ONE [Definitions]

Section One sets forth definitions of "abuse," "court," "family or household member" and "law officer" as follows:

"Abuse," the occurrence of one or more of the following acts between family or household members:

a. attempting to cause or causing physical harm;

b. placing another in fear of imminent serious physical harm;

c. causing another to engage involuntarily in sexual relations by force, threat of force or duress.

This definition should be interpreted broadly by police when responding to a complaint. Category (a) applies to any type of physical harm or attempt to cause physical harm, for example, punching, kicking, shoving, etc. Category (b) applies to threats and to situations where the abuser has assaulted the victim but no battery has occurred. Note that category (c) applies regardless of the marital status between the parties.

There is no spousal exclusion in Massachusetts to preclude a married woman from charging her husband with rape. Commonwealth v. Chretien, 383 Mass. 123 (1981).

"Court", the superior, probate and family, district, or Boston municipal court departments of the trial court.

In 1983, the definition of "Court" was amended to increase the number of court departments that have jurisdiction over 209A complaints.

"Family or household members", persons who:

a. are or were married to one another;

b. are or were residing together in the same household;

c. are or were related by blood or marriage;

d. having a child in common regardless or whether they have ever married or lived together; or

e. are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston Municipal courts after consideration of the following factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

Under this definition, any person, regardless of sex or age, who has been abused by a spouse, a former spouse, a household member, or former household member, (i.e. someone not necessarily of the opposite sex who shares a household), a parent of the plaintiff's minor child (though unmarried), or a blood relative, including a minor child, may file a c. 209A abuse petition.

The 1990 Amendments extended the definition of "family or household member" to include all blood relatives, in-laws, and step children, whether or not they have resided with the plaintiff. In addition, chapter 209A now protects individuals involved in a "substantive dating relationship."

"Law officer," any officer authorized to serve criminal process.

Significantly, the 1990 Amendments define "vacate order" for the first time:

> "Vacate order" court order to leave and remain away from a premises and surrendering forthwith any keys to said premises to the plaintiff. The defendant shall not damage any of the plaintiff's belongings or those of any other occupant and shall not shut off or cause to be shut off any utilities or mail delivery to the plaintiff. In the case where the premises designated in the vacate order is a residence, so long as the plaintiff is living at said residence, the defendant shall not interfere in any way with the plaintiff's right to possess such residence, except by order or judgment of a court of competent jurisdiction pursuant to appropriate civil eviction proceedings, a petition to partition real estate, or a proceeding to divide marital property. A vacate order may include in its scope a household, a multiple family dwelling and the plaintiff's workplace. When issuing an order to vacate the plaintiff's workplace, the presiding justice must consider whether the plaintiff and defendant work in the same location or for the same employer.

SECTION TWO [Venue]

Section Two permits the victim to file a complaint in the appropriate court, as defined in Section One, where the victim resided at the time the abuse occurred or where the victim resides at the time of the complaint if the victim has left the residence or household to avoid the abuse.

SECTION THREE [Content of Orders]

Section Three sets out the types of court orders that a person suffering from abuse may request by filing a complaint. The 1990 Amendments greatly expanded the protection available under this section. Court orders include but are not limited to:

> (a) ordering the defendant to refrain from abusing the plaintiff whether the defendant is an adult or minor;
>
> (b) ordering the defendant to refrain from contacting the plaintiff, unless authorized by the court, whether the defendant is an adult or minor;
>
> (c) ordering the defendant to vacate forthwith and remain away from the household, multiple family dwelling, and workplace. Notwithstanding the provisions of section thirty-four B of chapter two hundred and eight, an order to vacate shall be for a fixed period of time, not to exceed one year, at the expiration of which time the court may extend any such order upon motion of the plaintiff, with notice to the defendant, for such additional times as it deems necessary to protect the plaintiff from abuse;
>
> (d) awarding the plaintiff temporary custody of a minor child;
>
> (e) ordering the defendant to pay temporary support for the plaintiff or any child in the plaintiff's custody or both, when the defendant has a legal obligation to support such a person. In determining the amount to be paid, the court shall apply the standards established in the child support guidelines;
>
> (f) ordering the defendant to pay the person abused monetary compensation for losses suffered as a direct result of such abuse. Compensatory losses shall include, but not be limited to, loss of earnings or support, costs for restoring utilities, out-of-pocket losses for injuries sustained, replacement costs for locks or personal property removed or destroyed, medical and moving expenses and reasonable attorneys' fees;

(g) ordering the plaintiff's address to be impounded as provided in Section Nine.

(h) ordering the defendant to refrain from abusing or contacting the plaintiff's child, or child in plaintiff's care or custody, unless authorized by the court;

(i) the judge may recommend to the defendant that the defendant attend a recognized batterer's treatment program.

Pursuant to the 1990 Amendments, a court is now explicitly authorized under c. 209A, Section Three,to issue "no-contact" orders, which include multiple family dwellings and the workplace as well as the plaintiff's home. (§§ 3(c) and 3(d)) This section has also been amended to allow child custody orders where there is no marriage. (§ 3(d))

Section Three has been amended to require that courts apply the child support guidelines where the defendant must pay temporary support. (§3(e))

The provision for compensatory losses has been amended to include costs for restoring utilities and replacement costs for locks or personal property removed or destroyed. (§ 3(f))

The judge may now recommend that a defendant attend a recognized batterer's treatment program. (§ 3(i))

Section Three also prohibits a court from compelling mediation. Although the judge may refer the case to the probation department or a victim/witness advocate for an information gathering session, the court may not compel the parties to meet together at these sessions.

Section Three also limits the power of the courts to issue mutual restraining orders, and requires that the court make "specific written findings of fact in the event that mutual orders are issued." (§ 3(j))

With the 1990 Amendments, there is no statute of limitations for 209A claims under Section Three:

> A court shall not deny any complaint filed under this chapter solely because it was not filed within a particular time period after the last alleged incident of abuse.

Section Three provides that every order must state the time and date the order is to expire and shall include the date and time the matter will be heard again. Although any relief granted by the court shall not exceed one year, the criteria for extending orders was liberalized under the 1990 Amendments to state that:

> If the plaintiff appears at the court at the date and time the order is to expire, the court shall determine whether or not to extend the order for any additional time reasonably necessary to protect the plaintiff or to enter a permanent order. The court may also extend the order upon motion of the plaintiff, for such additional time as it deems necessary to protect from abuse the plaintiff or any child in the plaintiff's care or custody. The fact that abuse has not occurred during the pendency of an order shall not, in itself, constitute sufficient ground for denying or failing to extend the order, of allowing an order to expire or be vacated, or for refusing to issue a new order.

These orders are not exclusive. The court may draft specific orders tailored to the individual needs of the victim. For example, a court may issue an order directing the

defendant to retur- all house or car keys, an order directing the defendant to stay away from the victim's school, etc.

The victim may not be charged a filing fee for filing a complaint. Neither the plaintiff nor plaintiff's attorney shall be charged for certified copies of any orders entered by the court.

Orders issued under c. 209A, do not affect title to real property. Moreover, they are superseded by any subsequent custody or support order. Chapter 209A does not empower the district court to award visitation rights to the defendant.

A person who files a complaint under c. 209A must disclose prior or pending actions for divorce, separate support or abuse prevention. In cases where there are outstanding orders, a person should not be discouraged from filing subsequent abuse prevention complaints.

Note that where prior protective orders are in effect and the defendant violates them, he has committed a misdemeanor crime and is also in contempt of court. The plaintiff may file a civil or criminal contempt action in addition to pressing the criminal misdemeanor charge. The plaintiff may seek any or all of these remedies at the same time.

SECTION FOUR [Temporary Orders]

Section Four describes the procedure for obtaining temporary orders. A court may issue a temporary order upon the plaintiff's filing a complaint.

Section Four has been amended to extend the maximum length of temporary orders from "five days" to "ten court business days."

Notice shall be made by the appropriate law enforcement agency as provided in Section Seven.

If the defendant has been served with notice of the order but does not appear at the hearing, the temporary order continues in effect without further court order.

SECTION FIVE [Afterhours Orders]

This section provides for a procedure to be followed to obtain orders during non-business hours. Any judge of the superior, district, family and probate, or Boston Municipal Court may issue an order granting relief to the plaintiff if the plaintiff demonstrates a substantial likelihood of immediate danger of abuse. The order then must be certified by the Clerk Magistrate on the next court day.

Under the 1990 Amendments, Section Five now recognizes the need to issue protective orders over the telephone:

> In the discretion of the justice, such relief may be granted and communicated by telephone to an officer or employee of an appropriate law enforcement agency, who shall record such order on a form of order promulgated for such use by the chief administrative justice and shall deliver a copy of such order on the next court day to clerk-magistrate of the court having venue and jurisdiction over the matter.

If an order is granted under this section without the filing of a complaint by the plaintiff, the plaintiff must appear at

court on the next business day to file a complaint. The same notice and hearing requirements as set forth in Section Four apply to orders issued under this section.

Since most cases of domestic violence occur during non-business hours, police should be familiar with the procedures that apply during this period.

SECTION SIX [Police Responsibilities]

A. Powers and Duties of the Police

Section Six describes the powers and duties of the police. When an officer has reason to believe that a family or household member, as defined in Section One, has been abused or is in danger of being abused, c. 209A requires the officer to use all reasonable means to prevent further abuse. The steps that an officer shall take, but not be limited to, include the following action:

(1) remain on the scene of where said abuse occurred or was in danger of occurring as long as the officer has reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of a law officer. This shall include but not be limited to remaining in the dwelling for a reasonable period of time;

(2) assist the abused person in obtaining medical treatment necessitated by an assault, which may include driving the victim to the emergency room of the nearest hospital, or arranging for appropriate transportation to a health care facility, notwithstanding any law to the contrary;

(3) assist the abused person in locating and getting to a safe place; including but not limited to a designated meeting place for a shelter or a family member's or friend's residence. The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances;

(4) give such person immediate and adequate notice of his or her rights. Such notice shall consist of handing said person a copy of the statement which follows below and reading the same to said person. Where said person's native language is not English, the statement shall be then provided in said person's native language whenever possible.

> "You have the right to appear at the Superior, Probate and Family, District or Boston Municipal Court, if you reside within the appropriate jurisdiction, and file a complaint requesting any of the following applicable orders: (a) an order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody, if the attacker has a legal obligation of support and (e) an order directing your attacker to pay you for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorney's fees and other out-of-pocket losses for injuries and property damage sustained.
>
> For an emergency on weekends, holidays, or weeknights, the police will refer you to a justice of the superior, probate and family, district or Boston municipal court departments.
>
> You have the right to go to the appropriate district court or the Boston municipal court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses.
>
> If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or a friend's residence, or a similar place of safety.

You may request a copy of the police incident report at no cost from the police department."

(5) assist such person by activating the emergency judicial system when the court is closed for business; See also Section 5.

(6) inform the victim that the abuser will be eligible for bail and may be promptly released; and

(7) arrest any person a law officer witnesses or has probable cause to believe has violated a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to section eighteen, thirty-four B or thirty-four C of chapter two hundred and eight, section thirty-two of chapter two hundred and nine, section three, four or five of this chapter, or sections fifteen or twenty of chapter two hundred and nine C. When there are no vacate, restraining, or no-contact orders or judgments in effect, arrest shall be the preferred response whenever an officer witnesses or has probable cause to believe that a person:

(a) has committed a felony;

(b) has committed a misdemeanor involving abuse as defined in section one of this chapter;

(c) has committed an assault and battery in violation of section thirteen A of chapter two hundred and sixty-five.

The safety of the victim and any involved children shall be paramount in any decision to arrest. Any officer arresting both parties must submit a detailed, written report in addition to an incident report, setting forth the grounds for dual arrest.

Subsection (7) of Section Six now mandates an arrest where a temporary or permanent restraining order has been violated either in police presence or where police have probable cause to believe that a violation has occurred. The 1990 Amendments clarify when c. 209A violations are criminal offenses by providing that any violation of a "vacate," "refrain from abuse" or "no contact" order issued under G.L. chapters 208, 209, 209A or 209C is now subject to the criminal penalties contained in c. 209A, Section 7.

Please note that when a judge has issued an vacate, no-contact, and/or refrain from abuse abuse under c. 209A, certain additional conditions may have been imposed by the judge. These additional conditions may include granting temporary custody of the minor children to the petitioning spouse or ordering the defendant to pay certain monies. In the past, there has been some confusion as to whether a criminal complaint for violation of a 209A order can be pursued if, for example, a defendant fails to pay the monies ordered by the court but has not violated either the vacate or refrain from abuse order. The 1990 Aemendments make it clear at Subsection (7) of Section 6 that the law only intends and allows a criminal complaint for Violation of a 209A Order and related sanctions to be applied when the vacate and/or refrain from abuse aspects of the order are violated. Violations of other conditions should be enforced through civil contempt proceedings.

Subsection (7)(b) of Section 6 now authorizes an officer to make an arrest where the officer has probable cause to believe that a person has committed a misdemeanor involving "abuse." Abuse is specifically defined in Section One to include "placing another in fear of imminent serious physical harm," G.L. c. 209A, § 1, which under appropriate circumstances could include threats.

Nothing in chapter 209A requires the officer to present a complaint to a court or justice or to obtain a warrant before making an arrest, if the chapter 209A criteria are met. The authority to arrest for a misdemeanor involving abuse is a statutory exception to the complaint and warrant requirements of G.L. c. 275, §§ 2 and 3, discussed in Wagenmann v. Adams, 829 F.2d 196, 207-08 (1st Cir. 1987).

B. Additional Provisions

Section Six was also amended in 1990 to provide that "reasonable efforts" must be made by anyone authoried to make bail, to inform the victim prior to a defendant's release upon posting bail.

Additionally, Section Six now requires that either the court or an emergency response judge issue, upon the victim's request, a written no-contact order.

Finally, Section Six was amended to address the issue of a police officer's civil liability when responding to a domestic violence call:

> No law officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter and the statewide policy as established by the secretary of public safety.

C. Violation of Orders Issued By Probate, Family, or Superior Courts

When an order to vacate or refrain from abuse issued pursuant to c. 208, § 34B is violated, c. 208, § 34C provides for criminal penalties. Section 34C expressly states that the criminal penalties contained therein apply only to: (1) orders to vacate issued by the Probate and Family courts under §34B; (2) orders prohibiting a person from imposing any restraint on the personal liberty of another person under c. 208, § 18, c. 2099, §2, c. 209A, §¢3,4, Or 5, c. 209C, §¢ 15 or 16.; (3) orders for custody issued pursuant to any abuse prevention action.

The police frequently receive copies of Superior Court restraining orders, enjoining parties from contacting or visiting another party, and issued in a lawsuit that has nothing to do with divorce or separate support or family or household members. It is important to be aware that these orders are civilly enforceable only, and police response is the same as in any non-domestic matter. However, any vacate or restraining order issued under c. 209A, whether from District, Probate and Family, Superior or Boston Municipal Court, is criminally enforceable and requires an arrest.

D. Victim Safety

The victim's safety is the priority in any domestic violence case. Under c. 209A, the police are required to take all reasonable steps to insure that the victim is safe. In addition to making arrests when appropriate, the police may be required to remain on the scene until the victim's safety is secured, to transport the victim elsewhere, and to assist the victim in obtaining medical treatment when necessary. If the defendant agrees to leave the residence but requests to go to another room to pack his belongings, police may keep the defendant in view by following him through the residence. Commonwealth v. Rexach, 20 Mass. App. Ct. 919 (1985). Under c. 209A, police must make the victim aware of her rights by reading them to her and handing her a printed copy of these rights.

Issues of tenancy, custody and visitation, and marital status must not affect the police's response in domestic violence situations. Arrests should be made and outstanding protective orders should be enforced regardless of the defendant's argument that, for example, his name is on the lease to the apartment, or he has the right to visit the home pursuant to a custody agreement.

Police must fill out incident reports whenever they respond to domestic violence calls in accordance with the standards of the officer's law enforcement agency. Evidence of a defendant's prior mistreatment of the victim may be admissible in some cases to show the defendant's mental state or intent to harm the victim. Commonwealth v. Jordan, (No. 1), 397 Mass. 489, 492 (1986).

SECTION SEVEN [Service and enforcement of orders]

This section pertains to the service of court orders on the defendant. It requires that the court clerk transmit two certified copies of all orders and one copy of the complaint and summons to the appropriate law enforcement agency. Unless otherwise ordered by the court, the police must serve one copy of all orders and the copy of the complaint and summons on the defendant. The court must notify the police when any order is vacated.

Each order must contain the statement: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE. As set forth in this section, a violation is punishable by a fine of not more than five thousand dollars or by imprisonment in the house of correction for not more than two and one-half years, or both.

The 1990 Amendments allow the court, in addition to any other penalty, to order a defendant with no prior record of any crime of violence to participate in a certified batterer's

treatment program. Section Seven, as amended, also outlines the particulars of a defendant's participation in a batterer's treatment program. The court may also order treatment for any defendant with a substance abuse problem.

Where a defendant violates an abuse prevention order, the court may order the defendant to pay the plaintiff for all damages including, but not limited to, cost for shelter or emergency housing, loss of earnings or support, out-of-pocket losses for injuries sustained or property damaged, medical expenses, moving expenses, cost for obtaining an unlisted telephone number, and reasonable attorney's fees.

The criminal remedies provided in Section Seven are not exclusive. A criminal action does not preclude enforcement of such orders by civil contempt procedure.

(NOTE: In 1987, §7 was amended specifically to authorize service of c. 209A orders, complaints and summonses on Sundays.)

SECTION EIGHT [Confidentiality of records.]

This section permits the court to impound the plaintiff's address, upon the request of the plaintiff, to keep it from appearing on orders and to otherwise ensure that the address is confidential.

Records of cases brought under c. 209A shall be withheld from public inspection.

SECTION NINE [Standard complaint form.]

Section Nine charges the administrative judges of the superior, district, family and probate, and Boston municipal court departments to promulgate a standard form complaint. If no form complaint is available, a plaintiff may prepare and file a complaint pro se.

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THE ABUSE PREVENTION ACT: A SUMMARY OF THE 1990 AMENDMENTS TO M.G.L. CHAPTER 209A WITH REFERENCE TO THE POLICE GUIDELINES

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I. INTRODUCTION

The Massachusetts legislature passed the Abuse Prevention Act in July, 1978. It was amended in 1983, 1986, 1988, and again in December, 1990. The 1990 amendments went into effect on January 31, 1991. Commonly referred to as "Chapter 209A", the original purpose of the Abuse Prevention Act was to provide immediate protection to anyone being abused by a "family or household member" and to provide better police protection and intervention in domestic violence cases.

The 1990 amendments further these original goals by extending the protections of the Act to individuals who are or were involved in long-term relationships - or what the statute characterizes as a "substantive dating or engagement relationship" - and to past or present in-laws ("are or were (sic) related by blood or marriage" - c. 209A, §1) and by mandating the police to arrest anyone who has violated the vacate or refrain from abuse provisions of a temporary or permanent order issued pursuant to the Act. (Police Guidelines, §2.0, p. 3; §3.2, pp.5-7) The new law also introduces for the first time, the development of treatment program for the abusers which the court can compel the defendant to attend.

While the law was originally intended to meet the needs of battered women, it can be used by both men and women, adults and minors.

II. THE PROCESS

A. INITIAL POLICE RESPONSE

Police called to the scene of a domestic disturbance must now assist the abused person in getting to a safe place. (Police Guidelines, §2.0(C), p.2) While arrest is the preferred response when no orders are in effect (if the police witness or have probable cause to believe that a felony, a misdemeanor involving abuse, or an assault and battery has occurred), it is not mandated under the law. (c. 209A, §7; Police Guidelines, §2.0 (G) and (H), p. 2)

Prior to the 1990 amendments, an emergency restraining order could be obtain only by presenting said order to the on-duty judge. It is now possible to have a temporary order issued by phone when the court is not in session (c. 209A, §5), and the police are required to access the emergency judicial system when the court is closed for business. (c. 209A, §6; Police Guidelines, §2.0(E), p. 2)

The secretary of public safety must develop a police policy model by July 31, 1991. Local police must adopt or establish and implement specific operational guidelines consistent with this policy. (c. 209A, §§14,15)

B. EX PARTE HEARING

Abuse prevention cases follow a two-step procedure. At the first (ex-parte) hearing at which the abuse is established, the domestic violence victim can request a number of protective orders including a restraining order, a vacate order, as well as an order for custody and other protective orders, e.g. for the alleged

abuser to stay away from the children's school. The amendments clearly spell out that the period of time between the last incident of alleged abuse and the filing of the complaint cannot be the sole reason for the denial of the relief requested (i.e. There is no statute of limitations on the filing of a complaint under this Act. (c. 209A, §3))

The 1990 amendments define a "vacate order" for the first time (c. 209A, §1; Police Guidelines, § 3.2). As defined, it is clear that the alleged abuser must leave and stay away from the premises and the victim's workplace - taking into consideration whether or not the alleged abuser works at the same place - and not interfere with the victim's occupancy of the premises; turn over the keys to the premises to the victim; not damage any of the household contents; nor have the utilities shut off or the victim's mail stopped. (Police Guidelines,§ 2.0, pp.3-4; §3.4, pp.7-8; §3.7, p.8-9)

In addition, the amendments now allow the court to order the alleged abuser to refrain from contacting the victim or the victim's child or any child in the victim's care and to make a custody order even if the parties have never been married. (c. 209A, §3) Finally, the court may now recommend pursuant to the new amendments, that the alleged abuser attend a recognized batterer's treatment program.

Following this first hearing, a temporary order is issued. Prior to the 1990 amendments, this order was valid for period of five (5) days. It is now valid for a period of ten (10) days. (§5) The plaintiff receives a copy of the order, a second copy

sent to the police, and the third copy is served on the alleged abuser. There is no longer any requirement that the order be served in hand on the alleged abuser. (c. 209A, §§5,7; Police Guidelines, §3.7, p.8) Assuming that the alleged abuser is served, a second hearing is held.

C. TEN DAY HEARING

At the second hearing, both parties are heard. The court can then vacate, modify or continue the temporary orders for up to period of one year. Pursuant to the 1990 amendments, courts must now automatically set up a continuation hearing on the date when the orders are to expire and the order remains in effect until such hearing is held. In addition, the fact that no abuse has occurred while the order was in effect will not, in itself, prevent the extension of the order or the issuance of a new order. (c. 209A, §3)

As long as the defendant has been served with the temporary order, the plaintiff is entitled to ask that the temporary orders be made permanent and to ask for additional orders regarding support and monetary compensation, regardless of whether or not the defendant appears at the hearing. Under the 1990 amendments, any child support order set shall be in accordance with the child support guidelines. (c. 209A, §3) Monetary compensation which has been used - albeit rarely - to order the defendant to pay the plaintiff for any expenses caused by the abuse such as physician or hospital bills, loss of wages, attorney's fees, shelter expenses, etc., now also includes "costs for restoring utilities" and "replacement costs for locks and personal property removed or destroyed". (c. 209A, §3)

III. VIOLATION OF RESTRAINING ORDER

Once an order - temporary or permanent - has been issued, the police must arrest any person they witness or have probable cause to believe has violated the vacate, restraining, or no-contact provisions of the order. (c. 209A, §§6,7) Once a defendant is arrested, the police must advise the victim that the defendant is eligible for bail and before he is released, a no contact order must be issued upon request of the victim, and the judge or bailbondsman must try to warn the victim of the defendant's release. (c. 209A, §6)

IV. BATTERERS' TREATMENT

If a defendant is convicted of the violation of a restraining order, and has no prior record of any crime of violence, then the court can ask that he be evaluated by a certified batterer's treatment program. If the evaluation results indicate that he is amenable to treatment, then the court may order the defendant to receive appropriate treatment in addition to any other penalty. If the defendant fails to participate in treatment as ordered then any suspended sentence shall be imposed. The court may also order substance abuse treatment. (c. 209A, §7) The defendant, if he can afford it is responsible for the cost of the treatment.

V. MISCELLANEOUS

Other miscellaneous provisions of the amendments include.

*The court is responsible for notifying the plaintiff whose address has been impounded of any motion which the defendant files. (c. 209A, §8)

*Courts may not compel parties to mediate. (c. 209 A, §3)

*Courts may not order mutual restraining or no-contact orders unless that make specific findings of fact and a detailed order so that the police can determine when one of the parties is in violation of the order. (c. 209A, §3)

*In the event of a dual arrest, the police must submit a detailed written report in addition to the incident report setting forth the basis for the dual arrest. (c. 209A, §6(7); Police Guidelines §2.0, p.3)

*The police may not suggest a dual arrest as a means of discouraging requests for law enforcement intervention. (c. 209A, §6(7); Police Guidelines §2.0, p. 3)

*Police are protected from liability in civil actions for personal injury or injury to property if they have acted in good faith, in compliance with the statute, and the statewide policy established by the secretary of public safety. (c. 209A, §6; Police Guidelines, §2.0, p.4; §3.0(E), p. 5)

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SUMMARY OF POLICE DOMESTIC VIOLENCE GUIDELINES

By: BETTY ENG
ASSISTANT ATTORNEY GENERAL

OCTOBER, 1991

Effective date of Abuse Prevention Act, c.209A, as amended:

January 31, 1991.

Effective date of Police Guidelines:

October 1, 1991.

Background: In response to the 1990 Amendments to c.209A, the Abuse Prevention Act, these guidelines were developed by the Department of Public Safety to ensure uniform police procedure in responding to domestic violence calls.

The following is a summary of the Police Guidelines, with the most significant sections highlighted and discussed in conjunction with the 1990 Amendments to c.209A.

2.0: G.L. c.209A, §6: ABUSE PREVENTION LAW

Subparts A through D detail the conduct for police responding to domestic violence calls.

Subpart E discusses how to activate the emergency judicial system through the state police when the court is closed for business.

> **NOTE: The 1990 Amendments expressly provide that orders may now be issued over the telephone by a judge when the court is not in session. (c.209A, §5).

Subpart F requires that the police inform the abuse victim that the abuser is eligible for bail and may be promptly released.

> **NOTE: The 1990 Amendments require that when bail has been posted, reasonable efforts must be made by the judge or other person authorized to take bail to inform the victim of the abuser's imminent release. (c.209, §6)

In addition, a written no-contact order will be a condition of release upon a request from the victim. (c.209A, §6)

Subpart G mandates that the police arrest any person the officer witnesses or has probable cause to believe has violated a temporary or permanent vacate, restraining, or no-contact order or judgment.

**NOTE: This is a significant expansion of police power in the area of domestic violence. The 1990 Amendments to 209A require mandatory arrest whenever the officer has either witnessed one of the above violations, or has probable cause to believe that a violation has occurred. Chapter 209A specifically provides for warrantless arrests even if the victim is unwilling to bring a complaint against the abuser where probable cause exists.

Subpart H notes that where no orders or judgments are in effect, arrest shall be the preferred response when an officer witnesses or has probable cause to believe that a person has committed:

(1) a felony;

(2) an assault and battery in violation of G.L. c.265,§13A; or

(3) a misdemeanor involving abuse. (see below)

This provision is important because a misdemeanor involving abuse includes "threat (G.L. c.275) to commit crimes against the person or property of another." §2; (Guidelines, 2.0, p. 3)

* Definition of "abuse" under c.209A, §1:

(a) attempting to cause or causing physical harm;

(b) placing another in fear of imminent physical harm; or

(c) causing another to engage involuntarily in sexual relations by force, threat, or duress.

* Domestic relationships involve: Family members or household members:

The Guidelines reflect the 1990 Amendments to 209A to include the following:

-Blood relatives or present or former in-laws ; and

-Individuals involved in a "substantive dating

relationship." (c.209A, §1).

* Dual arrests are discouraged, and officers must submit a detailed written report in addition to the incident report when dual arrests are made.

* A written incident report must be filed whether or not any arrest was made.

* Civil liability: No civil liability for a probable cause arrest when the officer acts reasonably, in good faith and in compliance with the Act, statewide policy, and the Guidelines. (c.209A, §6)

3.0: PROCEDURES:

3.1 RESPONSE

Subparts A through E describe the manner in which officers arriving at the scene of a domestic violence call should conduct themselves.

3.2 INVESTIGATION

Officers are reminded that the same standards for probable cause apply to domestic violence offenses as for any other crimes.

Subparts A(1) through A(4) describe "private premises" and when officers must leave the scene.

Subpart B notes that each party must have the opportunity to relate his or her story individually.

Subpart C directs officers must, among others, ask the following pertinent questions:

* Obtain information about firearms

* Ascertain whether there has been past history of disputes and if any orders or judgments are in effect.

**NOTE: This is significant because the mandatory arrest provision of C.209A would be triggered. (c.209A, §6(7))

* Determine whether a "substantive dating relationship" exists. Criteria the court will use in its determination is listed. (c.209A, §1(e))

* Provide victims with information about crisis centers and emergency shelters.

3.3: CHILDREN

Where children are present at a domestic dispute, their welfare and safety must be a major consideration. Officers are directed to make oral and written reports to DSS if they believe child abuse has occurred.

3.4 PROPERTY

Police should warn any person who is being accused of removing, damaging or destroying property from the dwelling of the potential civil or criminal consequences of his or her actions.

3.5 FIREARMS:

Responding officers should place all firearms into temporary custody.

If the firearm cannot be seized:

(a) a judge can order defendant to surrender: the firearm; license to carry; and FID card; or

(b) a police chief can revoke the license or FID card.

3.6 INCIDENT REPORTS

The same reporting procedure applies to domestic violences cases as any other crime scene.

3.7 SERVICE OF ORDERS
Service in hand unless otherwise directed by court.

Once an order has been issued by the court, officers should not accompany defendants back to the property for any reason without judicial authorization.

The victim's safety should be considered in the timing of the service of any order.

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"The Police Guidelines"

COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF PUBLIC SAFETY

POLICY FOR LAW ENFORCEMENT RESPONSE TO DOMESTIC VIOLENCE

1.0 **AUTHORITY AND EFFECTIVE DATE.** This policy is established pursuant to Section 25 of Chapter 403 of the Acts of 1990, and shall take effect as of August 1, 1991.

1.1 **BACKGROUND.** Among the most difficult and sensitive calls for police assistance are those involving domestic violence. When responding to a domestic disturbance, officers must be both alert and impartial, and must be concerned with the needs of victims where domestic violence is apparent or alleged. At the same time, officers must always anticipate the unexpected. What appears to be a dispute of a minor nature may quickly escalate into a conflict of dangerous proportions because of the potentially violent nature of such incidents. Domestic violence situations are often characterized by anger, frustration, intense emotion and a batterer's attempt to control household members. These feelings can easily be directed against the responding officers, who can suddenly become the focus and target of ensuing violence. It is not unusual for aggressive outbursts within families to lead to serious bodily injury or even death. For this reason, whenever possible, at least two police officers should be assigned to a domestic violence situation unless immediate intervention is necessary to prevent serious physical harm.

2.0 **G.L. c. 209A s. 6: ABUSE PREVENTION LAW** (effective March 26, 1991). Whenever any law officer has reason to believe that a family or household member has been abused or is in danger of being abused such officer shall use all reasonable means to prevent further abuse. The officer shall take, but not be limited to, the following action:

A. remain on the scene where the abuse occurred or was (or is) in danger of occurring as long as the officer has reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of a law officer for a reasonable period to prevent abuse;

B. assist the abused person in obtaining medical treatment necessitated by an assault, which may include driving the victim to the emergency room of the nearest hospital, or arranging for appropriate transportation to a health care facil-

ity, notwithstanding any law to the contrary;

C. assist the abused person and dependent children in locating and getting to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or friend's residence (or a similar place of safety). The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances;

D. give abuse victims immediate and adequate notice of their rights by handing them and reading a form detailing their rights (see attached); where said person's native language is not English, the statement shall be then provided in said person's native language whenever possible;

E. assist the abused person by activating the emergency judicial system (generally by contacting the state police, unless some other procedure has been established) when the court is closed for business;

F. inform the victim that the abuser will be eligible for bail and may be promptly released;

G. arrest any person the officer witnesses or has probable cause to believe has violated a temporary or permanent vacate, restraining, or no-contact order or judgment.

H. Where there are no vacate, restraining or no-contact orders or judgments in effect, arrest shall be the preferred response whenever an officer witnesses or has probable cause to believe that a person:

(1) has committed a felony; or

(2) has committed an assault and battery in violation of G.L. c. 265, s. 13A; or

(3) has committed a misdemeanor involving abuse.

NOTE: Arrest for a misdemeanor not committed in an officer's presence is a statutory exception to the long-standing rule which limited misdemeanor arrests to those committed in the officer's presence. Officers are now authorized to arrest for past misdemeanors not committed in their presence so long as the officers have probable cause to believe that a misdemeanor involving "abuse" occurred. Such misdemeanors include, but are not limited to, threats to commit crimes against the person or property of another (G.L. c. 275 s. 2).

For the purposes of this law, "abuse" is defined as "the occurrence of one or more of the following acts between family or household members: (a) attempting to cause

or causing physical harm; (b) placing another in fear of imminent physical harm; (c) causing another to engage involuntarily in sexual relations by force, threat, or duress."

The safety of the victim and any involved children shall be paramount in any decision to arrest. Any officer arresting both parties is required by law to submit a detailed, written report, in addition to an incident report, setting forth the grounds for dual arrest. (Dual arrests, like the issuance of mutual restraining orders, trivialize the seriousness of domestic abuse and increase the danger to its victims.)

Officers investigating an incident of domestic violence shall not threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party.

Regardless of arrest, whenever an officer investigates an incidence of domestic violence, the officer shall immediately file a written incident report on the prescribed department form. The victim shall be provided a copy of the full incident report at no cost, upon request to the police department.

Family or household members are persons who:

1. are or were married to one another;

* 2. are or were residing together in the same household;

3. are related by blood or are or were related by marriage;

4. have a child in common regardless of whether they have ever been married or lived together; or

* 5. are or have been in a substantial dating relationship as determined by a court. (See "Procedures" below regarding criteria courts use and officer's role in assisting court in making such determination.)

* This includes same sex relationships.

C. 209A specifically provides that police shall make a warrantless arrest of a person whom the officer has probable cause to believe has committed a misdemeanor by violating a temporary or permanent vacate, restraining or no-contact order or judgment. (G.L. c. 276, s. 20.) Even if the victim is unwilling to bring a complaint against the alleged abuser, officers are expected to arrest where probable cause exists. (Note: While G.L. c. 276, s. 28 concerning arrests without a warrant for a violation of certain statutes, among which are listed c. 209 A, uses the word "may", this is superseded by the provisions of c.209 A which specify that officers "shall" make such a warrantless arrest.)

Additionally, the trespass law - G.L. c. 266, s. 120 - has been amended by including within its scope a violation of a vacate order issued pursuant to G.L. c. 208, s. 34B, or G.L. c. 209A.

An officer may arrest and detain a person charged with a misdemeanor, without having a warrant for such arrest in his possession, if the officer has actual knowledge that a warrant then in full force and effect for the arrest of such person has, in fact, issued. (G.L. c. 276, s. 28.)

According to Chapter 403 of the Acts of 1990: "No law officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter and the statewide policy as established by the secretary of public safety".

It is strongly recommended that all reasonable measures be taken to ensure cooperation among law enforcement personnel and those social service agencies involved with domestic violence incidents.

3.0 **PROCEDURES.**

3.1 **RESPONSE.** The unique nature of domestic violence situations requires that an officer immediately proceed to the place of the dispute. Check with dispatcher about previous incidents and existing orders. If possible, a back-up officer should also be dispatched to the scene.

A. The initial contact by the responding officers must convey a professionally calm and helpful attitude.

1. The officers shall state their reason for being present.

2. They must be considerate and attentive toward all parties and their problems regardless of the officers' own view or personal reactions toward the matter.

3. Upon entering, they shall prevent the physical movement of the parties as much as possible and control their access to any potential weapons.

B. Officers are authorized by c. 209A to transport victims of domestic violence to the emergency room of the nearest hospital. However, the preferred method of transportation is via ambulance, or if the victim is not seriously injured, in their own vehicle or that of a friend. Officers should receive approval from their supervisor prior to transporting victims of domestic abuse in a cruiser, except in an emergency.

C. The responding officers must take immediate control of the situation and should separate the parties to prevent any violent action. However, if there are two officers present at the scene, they should remain within view of each other to avoid any subsequent allegations of mistreatment.

D. The use of alcohol and drugs, or a condition of mental illness, can aggravate a domestic violence situation, requiring far greater patience on the part of the responding officers.

E. The provisions of G.L. c. 209A impose specific responsibilities upon the police in regards to a domestic abuse situation. All officers are expected to be thoroughly familiar with the contents of this statute (as amended from time to time) and to act with discretion and competence in carrying out its provisions.

3.2 **INVESTIGATION.** Officers responding to domestic violence calls should conduct thorough investigations, including interviewing children, neighbors and other potential witnesses. Keep in mind that the same standards for probable cause apply to domestic violence offenses as for any other crimes.

A. When investigating a report of domestic violence, officers should be thorough and observe the following guidelines

1. Officers may enter private premises at the request of someone in lawful control of the premises, or to enforce the provisions of a protective court order or to take reasonable measures to prevent any further abuse under the authority of G.L. c. 209A.

2. Officers may enter private premises where there is probable cause to believe that a felony has been or is being committed or that there is imminent danger of violence which could result in death or serious physical injury or where a breach of the peace has been committed in the officers' presence.

3. Officers must leave if both parties request that they do so unless there is probable cause to believe that a felony has been committed or that their continued presence is necessary to prevent physical harm or to carry out the provisions of G.L. c. 209A.

4. "Private premises" includes a house, an apartment, a condominium, a hotel room, a mobile home, a dormitory room or a house trailer.

B. In attempting to ascertain the facts in the dispute, the officers should allow each party to present his or her story individually, avoiding any unnecessary interruptions or undue interference by either party. While keeping all parties and officers in view, separate the parties sufficiently to allow each to relate matters to an officer without being overheard by the other party.

C. To deal with the situation, the officers must ask pertinent questions, and certain fundamentals must be followed:

1. Obtain information regarding relationships, including children. Obtain the phone number of the residence and include said number in the incident report for use by the bailbondsperson in informing victim of the abuser's release on bail. Inform victim that if the victim intends to leave the residence, and wishes to be informed of such release, the victim must inform the police department of a number where the victim can be reached, or where a message of such release can be safely relayed to the victim.

2. Obtain information about the ownership or presence of firearms.

3. Unless necessary, avoid emphasis or in depth questioning on personal matters if there is an indication that the person would rather not discuss them more fully.

4. Ascertain if there is a <u>prior history</u> of such disputes and whether there are any vacate, restraining, no-contact or other protective orders currently in effect.

5. Determine, when appropriate, who has <u>lawful custody</u> of any minors involved and whether court approved visitation rights are being violated.

6. As a standard precaution, police should check for <u>outstanding arrest warrants</u> on persons encountered during a domestic dispute. Since official court orders and other court papers are the best source for much of this information, police should ask the parties to produce copies of court orders or other court papers to verify their claims. In addition, the police records bureau may be checked, or appropriate courts, social service agencies or attorneys contacted.

7. Gather information, where applicable, which will assist the district, probate or Boston municipal courts in determining whether a "<u>substantive dating relationship</u>" exist. This is especially helpful if the officer anticipates activating

the Emergency Response Judicial System. Chapter 209A specifies that such courts will take into consideration the following factors:

* the length of time of the relationship;

* the type of relationship;

* the frequency of interaction between the parties; and

* if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

8. Provide the addresses and telephone numbers of available crisis centers or emergency shelters and, where appropriate, advise any victims or witnesses of the Victim-Witness Assistance Program administered by the local District Attorney's Office.

3.3 **CHILDREN.** Where children are present at a domestic dispute, their welfare and safety must be a major consideration. Any evidence of neglect or emotional, physical or sexual abuse of children under eighteen shall be carefully noted. Whenever a police officer, in his professional capacity, has reasonable cause to believe that a child under eighteen is suffering serious physical or emotional injury resulting from abuse, including sexual abuse, or from neglect, including malnutrition, or if a child is determined to be physically dependent upon an addictive drug at birth, the officer shall make an oral and written report to the Department of Social Services as required by G.L. chapter 119, section 51A. If an officer believes that a child under eighteen has died because of neglect, abuse or drug addiction, or is present in a household in which the officer observes the presence of drugs or evidence of drug use, he shall make a full report to his superior in addition to the report to the Department of Social Services in accordance with that same statute.

A. Officers should be aware that in serious cases of child neglect or abuse "any person" may apply to an appropriate juvenile court to have custody of a child under eighteen taken away from the parents or other neglectful or abusing custodian and have custody transferred, on an emergency basis, to the Department of Social Services or a licensed child care agency or individual. See c. 119, s. 24.

3.4 **PROPERTY.** The relationship of the parties and their property interests complicate domestic violence situations. When a party to a domestic dispute is accused

of removing or attempting to remove property from the dwelling or is accused of damaging or destroying property, he or she should be warned of the potential civil or criminal consequences of his or her conduct, and both parties should be advised to seek legal counsel. A vacate order issued pursuant to c. 209A includes the following requirement:

> The defendant shall not damage any of the plaintiff's belongings or those of another occupant and shall not shut off any utilities or mail delivery to the plaintiff.

3.5 **FIREARMS.** When a firearm or other weapon is present at the scene of a domestic violence situation or the responding officers are informed that a firearm or weapon has been or may be involved in the dispute, the officers shall:

1. request that the firearm or weapon be placed in their custody temporarily;

2. search for and take custody of the firearm or weapon if one of the parties requests that they do so;

3. search for and take temporary custody of the firearm or weapon to alleviate the threat of serious violence that it poses; and

4. determine whether a firearm is lawfully possessed before returning the same.

NOTE: If the officer determines that the weapon cannot be seized:

1. the judge can order defendant to surrender guns, a license to carry and an FID card; and

2. the chief can revoke any such license or F.I.D. card issued by him for felony convictions, drug use, possession or sale; and mental illness.

3.6 **INCIDENT REPORTS.** The reporting procedures of any other crime scene should be applied to domestic violence incidents. Prosecution and subsequent legal action can be greatly helped by documentation and description of physical injuries, photographs of the injuries, and/or noting the presence of children in household, and other information specified under 3.2.

3.7 **SERVICE OF ORDERS.** Service of orders shall be in hand unless otherwise ordered by the court. c. 209A s. 7 requires that "the law enforcement agency shall promptly make its return of service to the court".

* Once a vacate, no contact or restraining order

ABUSED PERSON'S NOTICE OF RIGHTS

Directions to Police Officer:

Give a victim of domestic violence immediate and adequate notice of his or her rights. The notice shall consist of handing said person a copy of the statement which follows below and reading the same to the victim. Where the victim's native language is not English, the statement shall be then provided in the victim's native language whenever possible.

You have the right to appear at the Superior, Probate and Family District or Boston Municipal Court, if you reside within the appropriate jurisdiction, and file a complaint requesting any of the following applicable orders: (a) an order restraining your attacker from abusing you; (b) an order directing you attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody, if the attacher has a legal obligation of support; and (e) an order directing your attacker to pay you for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorney's fees and other out-of-pocket losses for injuries and property damage sustained

For an emergency on weekends, holidays, or week nights the po

is issued, officers should not accompany defendants to the property for any reason without specific judicial authorization.

NOTE: The victim's safety should be considered in the timing of the service of the orders.

Thomas C. Rapone
Secretary of Public Safety

lice will refer you to a justice of the superior, probate and family, district, or Boston municipal court departments.

You have the right to go to the appropriate district court or the Boston municipal court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses.

If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or a friend's residence, or a similar place of safety.

You may request a copy of the police incident report at no cost from the police department.

BATTERED WOMEN'S SERVICES: STATEWIDE RESOURCES

Massachusetts Coalition of Battered Women Service Groups
Phone: 426-8492
Address: 107 South Street
Boston, MA 02111
Services: Information and referral

SHELTER AND COUNSELING LISTINGS

BOSTON AREA

Casa Myrna Vazquez
Phone: 262-9581
Address: P.O. Box 180019
Boston, MA 02118
Services: Shelter for battered women; transitional living program; English and Spanish-speaking staff.

Elizabeth Stone House
Phone: 522-3417
Address P.O. Box 15
Jamaica Plain, MA 02130

F.I.N.E.X. House
Phone: 288-1054
Address: P.O. Box 1154
Jamaica Plain, MA 02130

Harbor Me
Phone: 889-2111
Address: P.O. Box 191
Chelsea, MA 02150
Services: Counseling for battered women; assistance with locating shelter; safe-home network; English, Vietnamese and Spanish-speaking staff.

Mary Lawson Forman House
Phone: 825-1666 (Hotline); 262-9581 (Office)
Address: P.O. Box 49
Dorchester MA 01842

Renewal House
Phone: 566-6881 (Hotline); 277-4194 (Office)
Address: P.O. Box 919
Roxbury, Ma 02115
Services: Counseling and shelter for battered women; Spanish and Haitian-speaking staff.

Respond
Phone: 623-5900
Address: P.O. Box 555
Somerville, MA 02143

CAMBRIDGE

Transition House
Phone: 661-7203 (24 hour hotline)
Address: P.O. Box 530
Harvard Square Station
Cambridge, MA 02238
Services: Shelter; counseling and referrals for battered women; dating violence and intervention for teens.

CAPE COD AND THE ISLANDS

Independence House
Phone: (508) 771-6507
Address: 105 Pleasant Street
Hyannis, MA 02601

A Safe Place, Inc.
Phone: (508) 228-0561
Address: P.O. Box 3231
Nantucket, MA 02584

Women's Support Services
Phone: (508) 693-0032
Address: Box 369
Vineyard Haven, MA 02568

SOUTH OF BOSTON

South Shore Women's Center
Phone: (508) 746-2664
Address: Ferioli Building
85 Samoset Street
Plymouth, MA 02360

WOMANSPLACE
Phone: (508) 588-2041
Address: P.O. Box 4206
Brockton, MA 02403

DOVE (Domestic Violence Ended)
Phone: 471-1234
Address: P.O. Box 289
Quincy, MA 02269

New Hope
Phone: 762-1530 (Norwood)
(508) 695-2113 (Attleboro)
(508) 824-4757 (Taunton)
Address: P.O. Box 1036
Attleboro, MA 02703
Services: Shelter and counseling; Spanish-speaking legal advocate; sexual assault unit

New Bedford Women's Center
Battered Women's Project
Phone: (508) 992-4222
Address: 252 Country Street
New Bedford, MA 02740

Women's Center/ SSTR, Inc.
Phone: (508) 675-0087
Address: 386 Stanley Street
Fall River, MA 0270

NORTH OF BOSTON

Alternative House
Phone: (508) 454-1436
Address: P.O. Box 2096
Highland Station
Lowell, MA 01851

H.A.W.C. (Help for Abused Women and Their Children)
Phone: (508) 774-6841
Address: 9 Crombie Street
Salem, MA 01970

Services Against Family Violence
Phone: 324-2221
Address: 110 Pleasant Street
Malden, MA 02148

Women's Resource Center
Phone: (508) 685-2480 (Lawrence)
(508) 373-4041 (Haverhill)
Address: 454 North Canal Street
Lawrence, MA 01842

Waltham Batterd Women Support Committee
Phone: 899-8676
Address: P.O. Box 24
Walthm, MA 02254

Women's Crisis Center of Greater Newburyport
Phone: (508) 465-2155
Address: 8 Prince Street
Newburyport, MA 01950

WEST OF BOSTON

Daybreak, Inc.
Phone: (508) 755-9030
Address: 72 Cambridge Street, No. 222
Worcester, MA 06103-2369

Necessities/Necesidades
Phone: (413) 586-5066
Address: 16 Armory Street
Northhampton, MA 01060-3031

NELCWIT (New England Learning Center for Women in Transition)
Phone: (413) 772-0806
Address: 25 Forest Avenue
Greenfield, MA 01301

Women's Protective Services
Phone: (508) 626-8686 (Hotline)
(508) 820-0834 (Office)
Address: 63 Fountain Street
Framingham, 01701

Women's Resources
Phone: (508) 342-9355 (Fitchburg)
(508) 630-1031 (Gardner
(508) 368-1311 (Clinton)

Women's Services Center
Phone: (413) 443-0089
Address: 146 First Street
Pittsfield, MA 01201

Womenshelter/ Companeros
Phone: (413) 536-1628
Address: P.O. Box 6099
Holyoke, MA 01041

YWCA of Western Mass.
Phone: (413) 562-1920 (Westfield)
(413) 733-7100 (Springfield: Abuse and Rape Crisis Hotline)

7131A

Barnstable County District Attorney's Office
Victim/Witness Assistance
First District Courthouse
Route 6A
Barnstable, MA. 02360
508-362-8103

DISTRICT COURTS: Barnstable, Edgartown, Nantucket, Orleans

Berkshire County District Attorney's Office
Victim Assistance Program
P.O. Box 1383
Pittsfield, MA. 01201
413-443-3500

DISTRICT COURTS: North Berkshire, Pittsfield,
South Berkshire

Bristol County District Attorney's Office
Victim/Witness Assistance Program
888 Purchase Street
New Bedford, MA. 02740
508-997-0711

DISTRICT COURTS: Attleboro, New Bedford, Fall River,
Taunton

Essex County District Attorney's Office
Victim/Witness Assistance
Museum Place
1 East India Square
Salem, MA. 01970
508-745-6610

DISTRICT COURTS: Amesbury, Gloucester, Haverhill, Ipswich,
Lawrence, Lynn, Newburyport, Peabody,
Salem

Hampden County District Attorney's Office
Victim/Witness Assistance
50 State Street
Springfield, MA. 01103
413-781-8100

DISTRICT COURTS: Chicopee, Holyoke, Palmer, Springfield,
Westfield

Middlesex County District Attorney's Office
Victim/Witness Service Bureau
40 Thorndike Street
Cambridge, MA. 02141
617-494-4604

DISTRICT COURTS: Ayer, Cambridge, Concord, Framingham, Lowell, Malden, Marlborough, Natick, Newton, Somerville, Waltham, Woburn

Northwestern District Attorney's Office
Victim/Witness Assistance Program
One Court Square
Northampton, MA. 01060
413-586-5780

DISTRICT COURTS: Greenfield, Northampton, Orange, Ware

Norfolk County District Attorney's Office
Victim/Witness Assistance
P.O. Box 309
Dedham, MA. 02026
617-329-5440

DISTRICT COURTS: Brookline, Dedham, Quincy, Stoughton, Wrentham

Plymouth County District Attorney's Office
Victim Assistance Program
32 Belmont Street
Brockton, MA. 02401
508-583-3306

DISTRICT COURTS: Brockton, Hingham, Plymouth, Wareham

Suffolk County District Attorney's Office
Victim/Witness Assistance
Old Courthouse, Room 2720
Boston, MA. 02108
617-725-8677

DISTRICT COURTS: Boston Municipal Court, Brighton, Charlestown, Chelsea, Dorchester, East Boston, Roxbury, South Boston, West Roxbury

Worcester County District Attorney's Office
Victim/Witness Assistance
332 Main Street
Worcester, MA. 01608
508-792-0214

DISTRICT COURTS: Clinton, Dudley, Fitchburg, Gardner, Leominster, Milford, Spencer, Uxbridge, Westborough, Winchendon, Worcester

STATEWIDE OFFICES:

Massachusetts Victim and Witness Assistance Board
Massachusetts Office for Victim Assistance
100 Cambridge Street, Room 1104 (Saltonstall Building)
Boston, MA.
617-727-5200

Massachusetts Parole Board
Victim Services Unit
Fort Point Place
27-43 Wormwood Place, 3rd fl.
Boston, MA. 02110-1606
617-727-3271

Victim Compensation and Assistance Division
Department of the Attorney General
One Ashburton Place
Boston, MA. 02108
617-727-2240

SOURCE: Domestic Violence Trainer's Manual produced by the Massachusetts Criminal Justice Training Institute, Boston, MA,1991.

Safety Fund Jane Doe

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An Overview of the Jane Doe Safety Fund

Who is Jane Doe?

Jane Doe is any woman. She is from any race or nationality, rich or poor, highly educated or not; from any lifestyle, profession, or working at home raising children. Jane Doe can be your Mother, Sister, Daughter, Co-worker, or You.

"Battering appears to be the single most common cause of injury to women - more common than automobile accidents, muggings and rapes combined. The problem is so prevalent . . . that it has a major influence on the physical and mental well being of women."

Journal of the American Medical Association (August, 1990)

According to former Surgeon General, C. Everett Koop, *"domestic violence is the number one health threat facing women in this country; yet it continues to remain a well kept secret. Domestic violence costs U.S. businesses an estimated four billion dollars per year in lost wages, benefits and productivity."*

What is the Jane Doe Safety Fund?

The Jane Doe Safety Fund is a statewide fundraising campaign with a goal of raising $3,000,000 over the next three years. These funds will support battered women's programs across the Commonwealth in their efforts to assist women and their children in finding safety from violent homes.

The Jane Doe Safety Fund seeks to create an atmosphere of intolerance towards domestic violence.

To the general public, our message is:
"Domestic violence is a serious crime which our society will not tolerate."
"Violence against women hurts everyone."
"No woman is safe until we all are."

To battered women, our message is:
"No one deserves to be beaten."
"Home must be a safe place."
"Help is available."

To batterers, our message is:
"Domestic violence is a serious crime and you will be arrested."
"Help is available."
"You can work on changing."

Safety Fund Jane Doe

107 South Street, Suite 504
Boston, MA 02111
(617) • 423 • 8492

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PROJECT SUMMARY

Since 1978, the Massachusetts Coalition of Battered Women's Service Groups (the Coalition) has made tremendous headway in supporting and advocating an end to domestic violence and in helping to make women's lives safer: by creating a strong network of 27 shelters and safe homes, and working with legislators and public policy makers to pass laws to protect battered women and their children.

Although there have been great strides in making the public more aware of the pervasiveness of the problem of domestic violence, we still have a long way to go. In Massachusetts, reports from our network indicate that over 70,000 women have used our hot lines in 1991. The Boston Globe reports that one woman is murdered by her partner every 16 days in our Commonwealth, more than the national average of one woman murdered every 18 days. Indifference, neglect and lack of training on the part of the medical community, social service providers, criminal justice system, neighbors and family are all contributing factors to this societal tragedy.

Because there is presently a greater public awareness to the problem of domestic violence, we feel the time is right for a statewide fund raising and public education campaign to support domestic violence prevention programs. There has been an increase in the reporting of crimes by victims due to advocacy and support programs. Also the media has finally opened its eyes to this serious crime against women and their children. Both local and national news and entertainment programming have been very receptive to the outreach efforts of the Coalition. The media has brought this issue to the forefront, no longer dismissing domestic violence as a family squabble between husband and wife or common law partners.

Because domestic violence is a learned behavior and can be prevented, the **Jane Doe Safety Fund** will work to strengthen society's intolerance towards domestic violence through public education, a cohesive media campaign, and a working alliance with the business, legal, medical communities, and the criminal justice system.

The Jane Doe Safety Fund will:

- establish an emergency fund in each of the member shelter programs in Massachusetts that service battered women,
- establish an endowment fund to insure the continuation of this work beyond the initial three year campaign,
- create an atmosphere of intolerance towards domestic violence through community education and public awareness.

Section C

Drunk Driving

WORKSHOP C: DRUNK DRIVING

Moderator: Ben Shapiro, Director
Mass. District Attorneys Association
55 Court Street
Boston, MA 02108
(617) 723-0642

Panelists: Representative Patricia Jehlen
State House, Room 134
Boston, MA 02133
(617) 722-2400

Thomas Reilly, District Attorney
Middlesex County
40 Thorndike Street
Cambridge, MA 02141
(617) 494-4075

Kay Dudley, State Chair
Mother's Against Drunk Driving
State Office
100 Worcester Road
Framingham, MA 01701
(800) 633-6233

Jack Flynn, Legislative Director
Executive Office of Public Safety
100 Cambridge Street
Boston, MA 02202
(617)727-7775

Ralph Hingson, S.c.D.
BU School of Public Health
85 East Newton Street
Boston, MA 02118
(617) 638-5160

Gerald St. Hilaire, Chief Legal Counsel
Mass. Registry of Motor Vehicles
100 Nashua Street
Boston, MA 02114
(617) 727-5067

1992 Legislation

Bill #S-130 "Increase Penalty for DUI Homicide"
Penalty would be 5 years imprisonment with no reduction, suspension, or parole allowed until 5 years has been served.

Bill #S-132 "Causing Death of More Than One Individual"
Related to S-130 this bill would mandate if more than one death is caused by a drunk driver the sentence would be consecutive for each conviction.

Bill #H-175 "License Suspension for Refusal"
Section 11 is part of a large bill filed by the Registry of Motor Vehicles. This section would increase the time a license is suspended for refusal to take a breathalizer from 120 days to 180 days.

Section 10 of the same bill allows the background years for previous record investigation to increase from 6 years to 10 years.

Bill #S-370 "Keg Tag Identificiation"
This bill will provide a mandatory Identification System and Guidelines for establishments distributing kegs of beer, ale and malt beverages which will identify the purchaser of the keg. The purpose behind this is to deter adults from purchasing kegs of beer, ale or malt beverages for minors. A mandatory deposit on the sale of each keg, the amount of which to be determined by the local licensing authority, will be required. Individuals found purchasing kegs for minors shall be punished accordingly.

Bill #H-407 "License suspension for Refusal of Breathalyzer"
Provides for the suspension of motor vehicle licenses for 180 days for refusal to submit to a test for blood alcohol content.

Bill #S-717 "Admissibility"
Bill providing for the admissibility of the refusal to take a test for chemical analysis of breath into evidence at criminal trial. Briefs have been filed with the Justices of the supreme Judicial Court on March 10, 1992 requesting opinions on the Constitutional question of law.

Bill #H-1192 "10 Year License Revocation for Manslaughter"
Provides for a 10 year revocation of license for a person convicted of manslaughter by use of a motor vehicle, on the first offense. A subsequent offense shall carry a lifetime loss of license.

Bill #H-3639 "Vehicle Confiscation"
Provides for the forfeiture of the motor vehicles of persons who are convicted of operating a motor vehicle after suspension of license..

Bill #H-5159 ".00% BAC Tolerances Under Age 21"
This bill will further regulate alcohol use by minors. If there is evidence that BAC percentage is over .00% and the driver is under the age of 21, then that person shall lose their right to operate for one year.

Bill #H-5160 .08% BAC Tolerance"
This bill would lower the BAC rate for the presumption of driving while intoxicated from .10 to .08.

Senate 717
An act providing for the admissibility of the refusal to take a chemical analysis test, so called, into evidence at criminal trials.

[Similar Matter Filed During Past Session — See Senate No. 154 of 1991.]

SENATE . . . . . No. 717

By Mr. Harold, petition (accompanied by bill, Senate, No. 717) of Paul D. Harold, Patricia A. Walrath, Paul R. Haley, Thomas F. Reilly, Marc D. Draisen, Robert A. Antonioni and Lois G. Pines for legislation to provide for the admissibility of the refusal to take a breathalyzer test, so-called, into evidence at criminal trials. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT PROVIDING FOR THE ADMISSIBILITY OF THE REFUSAL TO TAKE A ~~BREATHALYZER~~ TEST, SO-CALLED, INTO EVIDENCE AT CRIMINAL TRIALS.
Chemical analysis

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Paragraph (e) of subdivision 1 of section 24 of Chapter 90 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the second and third sentences and inserting in the place thereof the following sentence: — Evidence that the defendant failed or refused to consent to such a test or analysis shall not be admissible in a civil proceeding, but shall be admissible in a criminal proceeding, and shall be admissible in any action by the registrar under paragraph (f).

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House 5159
Senate 1030
An act regulating alcohol use by minors.
This bill will lower the rate of blood alcohol threshold for a person under 21 years of age from .10 to .00.

HOUSE . . . . . No. 5159

By Ms. Jehlen of Somerville, petition of Patricia D. Jehlen, Barbara Gardner, Pamela P. Resor, Peter A. Vellucci, A. Stephen Tobin and others for legislation to further regulate the operation of motor vehicles while under the influence of alcoholic beverages. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT FURTHER REGULATING DRIVING WHILE UNDER THE INFLUENCE BY CERTAIN PERSONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Paragraph (e) of subdivision (1) of section 24, of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the penultimate sentence the following sentence: — In the case of a person under twenty-one years of age, if such evidence is that such percentage was more than zero one-hundredths, there shall be a presumption that such defendant was under the influence of intoxicating liquor.

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[Similar Matter Filed During Past Session — See Senate No. 144 of 1991.]

SENATE . . . . . No. 106

By Mr. Berry, petition (accompanied by bill, Senate, No. 106) of Frederick E. Berry and Kevin M. Burke for legislation to make all types of motor vehicle homicide a felony. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT MAKING ALL MANNER OF MOTOR VEHICLE HOMICIDE A FELONY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 90, section 24G(b) is hereby amended by striking out "shall be punished by imprisonment in a jail or house of correction for not less than thirty days nor more than two and one-half years, or by a fine of not less than three hundred nor more than three thousand dollars, or both," and inserting in place thereof the following: — "shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment in a jail or house of correction for not more than two and one half years or by a fine of not more than three thousand dollars, or by both such fine and imprisonment."

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House 175
Section 10 Window of background years allowed for previous record increase from 6 years to 10 years.
Section 11 License suspension for refusal to take breathalizer would increase from 120 days to 180 days.

inserting in the second sentence after the word "dealers" in line three the following words: — "and insurance agents".

SECTION 8. Section 7A of Chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by deleting in the third paragraph the words "January, March, May, September, and November" and inserting in place thereof the following words: — "August or September and March or April and when the Registrar determines that additional inspections are necessary".

SECTION 9. Section 22 of Chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph: —

(g) If any child is adjudged a delinquent child by reason of having violated any statute, bylaw, ordinance or regulation relating to the operation, use or transfer of a motor vehicle, such adjudication shall operate as a conviction for the purposes of operator license and registration suspensions by the Registrar.

SECTION 10. Section 24 of Chpater 90 of the General Laws as appearing in the 1990 Official Edition, is hereby amended by deleting the word "six" in lines 12, 33, 58, 114, 122, 130, 197, 217, 226, 243, 266 and substituting therefor the word "ten".

SECTION 11. Section 24 of Chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by deleting the word "twenty" in line 372 and substituting therefor the word "eighty".

SECTION 12. Section 29 of Chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by deleting the words "upon blanks furnished" in line 14 and inserting in place thereof the following: — "in a form prescribed".

SECTION 13. Section 30 of Chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by deleting the second sentence and inserting in place the following: — The Registrar shall maintain a record, in the main

HOUSE . . . . . No. 3342

By Mr. Tolman of Watertown, petition of Thomas F. Reilly and Warren E. Toman relative to the penalty for operating a motor vehicle while under the influence of alcoholic beverages or drugs. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT AMENDING THE LAWS REGARDING OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 23 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 56 the word "ten" and inserting in place thereof the word: -- sixty.

SECTION 2. Subparagraph (1) of paragraph (a) of subsection (1) of section 24 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out said subparagraph in its entirety, consisting of lines 1 through 108, inclusive, and inserting in place thereof the following: –

Section 24. (1)(a)(1) Whoever, upon any way or in any place to which the public has a right of access, or upon any way in any place to which members of the public have access as invitees or licensees, operates a motor vehicle while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants or stimulant substances, all as defined in chapter ninety-four C, or the vapors of glue shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment for not more than two and one-half years, or both

If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense within six years preceding

the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than three hundred nor more than one thousand dollars and by imprisonment for not less than fourteen days nor more than two and one-half years, provided that the sentence imposed upon such person shall not be reduced to less than fourteen days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served fourteen days of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program.

If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense two times within six years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than five hundred nor more than one thousand dollars and by imprisonment for not less than six months nor more than two and one-half years, provided that the sentence imposed upon such person shall not be reduced to less than six months, nor suspended, nor shall any person be eligible for probation, parole, or furlough or receive any reduction from his sentence for good conduct until he shall have served six months of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill

relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program; provided, further, that the defendant shall serve such six month sentence in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of those who operate while under the influence of intoxicating liquor.

If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense three times within ten years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than five hundred nor more than one thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than ten years or by such fine and imprisonment in a jail or house of correction for not less than one year nor more than two and one-half years; provided, however, that the sentence imposed upon such person shall not be reduced to less than one year nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served one year of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program.

If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense four or more times within ten years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than one thousand nor more than one thousand five hundred dollars and by imprisonment in the state prison for

not less than two and one-half years nor more than ten years, or by such fine and imprisonment in a jail or house of correction for not less than two years nor more than two and one-half years; provided, however, that the sentence imposed upon such person shall not be reduced to less than two years nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served two years of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program.

A prosecution commenced under the provisions of subparagraph (1) shall not be placed on file or continued without a finding. No trial shall be commenced on a complaint alleging a violation of this subparagraph, nor shall any plea be accepted on such a complaint, nor shall the prosecution on such a complaint be transferred to another division of the district court or to a jury-of-six session, until the court receives a report from the commissioner of probation pertaining to the defendant's record, if any, of prior convictions of like offenses or of assignment to an alcohol education or rehabilitation program because of a like offense; provided, however, that the provisions of this paragraph shall not justify the postponement of any such trial or of the acceptance of any such plea for more than five working days after the date of the defendant's arraignment. The commissioner of probation shall give priority to requests for such records.

(c) At any time before the commencement of a trial or acceptance of a plea on a complaint alleging a violation of this subparagraph, the prosecutor may apply for the issuance of a new complaint pursuant to section thirty-five A of chapter two hundred and eighteen alleging a violation of this subparagraph and one or more prior like offenses. If such application is

made upon motion of the prosecutor, the court shall stay further proceedings on the original complaint pending the determination of the application for the new complaint. If a new complaint is issued, the court shall dismiss the original complaint and order that further proceedings on the new complaint be postponed until the defendant has had sufficient time to prepare a defense.

If a defendant waives right to a jury trial pursuant to section twenty-six A of chapter two hundred and eighteen on a complaint under this subdivision he shall be deemed to have waived right to a jury trial on all elements of said complaint subject to the right to appeal pursuant to section twenty-seven A of said chapter two hundred and eighteen.

SECTION 3. Subparagraph (3) of paragraph (a) of subsection (1) of section 24 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 121 the words "such a violation" and inserting in place thereof the following words: — "a like offense".

Subparagraph (4) of paragraph (a) of said subsection (1) of said section 24, as so appearing, is hereby amended by striking out the first two paragraphs in their entirety, consisting of lines 125 through 181, inclusive, and inserting in place thereof the following two paragraphs: —

(4) Notwithstanding the provisions of subparagraphs (1) and (2), a judge, before imposing sentence on a defendant who pleads guilty to or is found guilty of a violation of subparagraph (1) and who has not been convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense two or more times within six years of the date of the commission of the offense for which he has been convicted shall receive a report from the probation staff of the court which shall include but not be limited to a copy of the defendant's operating record, the criminal record of the defendant, if any, and such information as may be available as to the defendant's use of alcohol and may, upon a written finding that appropriate and adequate treatment is available to the defendant and the defendant would benefit from such treatment and that the safety of the public would not be endangered, with the defendant's consent place a defendant on probation for two

years, provided that a condition of such probation shall be that the defendant be confined for no less than fourteen days in a residential alcohol treatment program, as provided or sanctioned by the division of alcoholism, pursuant to regulations to be promulgated by said division in consultation with the department of correction and with the approval of the secretary of human services or at any other facility so sanctioned or regulated as may be established by the commonwealth or any political subdivision thereof for the purpose of alcohol or drug treatment or rehabilitation, and comply with all conditions of said residential alcohol treatment program. Such condition of probation shall specify a date before which such residential alcohol treatment program shall be attended and completed.

Failure of the defendant to comply with said conditions and any other terms of probation as imposed under this section shall be reported forthwith to the court and proceedings under the provisions of section three of chapter two hundred and seventy-nine shall be commenced. In such proceedings, such defendant shall be taken before the court and if the court finds that he has failed to attend or complete the residential alcohol treatment program before the date specified in the conditions of probation, the court shall forthwith specify a second date before which such defendant shall attend or complete such program and, unless such defendant shows extraordinary and compelling reasons for such failure, shall forthwith sentence him to imprisonment for not less than two days; provided, however, that such sentence shall not be reduced to less than two days, nor suspended, nor shall such person be eligible for furlough or receive any deduction from his sentence for good conduct until he shall have served two days of such sentence; and provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. If such

defendant fails to attend or complete the residential alcohol treatment program before the second date specified by the court, further proceedings pursuant to said section three of said chapter two hundred and seventy-nine shall be commenced, and the court shall forthwith sentence the defendant to imprisonment for not less than fourteen days; provided, however, that such sentence shall not be reduced to less than fourteen days, nor suspended, nor shall such person be eligible for furlough or receive any deduction from his sentence for good conduct until he shall have served fourteen days of such sentence; and provided further that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program.

SECTION 4. Paragraph (b) of subsection (1) of section 24 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting in line 201, between the words "twenty-four D," and the words "no appeal" the following word: — and.

SECTION 5. Subparagraph (2) of paragraph (c) of subsection (1) of section 24 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 225 the words "like violation" and inserting in place thereof the words: — like offense.

Subparagraph (3) of said paragraph (c) of said subsection (1), as so appearing, is hereby amended by striking out in lines 246 to 247 the words "under paragraph (b) or under section twenty-four D or twenty-four E" and inserting in place thereof the words: — for a like offense.

Said paragraph (c) of said subsection (1), as so appearing, is hereby further amended by striking out in its entirety subpara-

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graph (3½), consisting of lines 262 to 279 inclusive, and inserting in place thereof the following two subparagraphs:

(3½) Where the license or right to operate of a person has been revoked under paragraph (b) and such person has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense three times within a period of ten years preceding the date of the commission of the offense for which such person has been convicted, the registrar shall not restore the license or reinstate the right to operate of such person unless the prosecution of such person has terminated in favor of the defendant, until ten years after the date of the conviction; provided, however, that such person may, after the expiration of five years from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary.

(3¼) Where the license or right to operate of a person has been revoked under paragraph (b) and such person has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense four or more times within a period of ten years preceding the date of the commission of the offense for which such person has been convicted, the registrar shall not restore the license or reinstate the right to operate of such person unless the prosecution of such person has terminated in favor of the defendant, until fifteen years after the date of the conviction; provided, however, that such person may, after the expiration of seven years from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary

SECTION 6. Section 24G of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 6 and line 40 the words "section one of".

SECTION 7. Section 24L of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 6 and line 39 the words "section one of".

SECTION 8. Section 24O of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 4 the words "further violation of said chapter" and inserting in place thereof the words: — subsequent violations for like offenses.

SECTION 9. Section 26 of chapter 218 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting in line 10 between the words "crimes listed in" and the words "paragraph (a)" the following words and comma: — subparagraph (1) of paragraph (a) of subdivision (1) of section twenty-four,.

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House 5160
An Act relative to blood alcohol threshold and the presumption of driving while intoxicated.
This bill would lower the rate from .10 to .08.

HOUSE . . . . . No. 5160

By Ms. Jehlen of Somerville, petition of Patricia D. Jehlen, other members of the House and others for legislation to further regulate the blood alcohol content for driving under the influence of intoxicating liquor. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT FURTHER REGULATING THE BLOOD ALCOHOL CONTENT FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Paragraph (e) of subdivision (1) of section 24 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the penultimate sentence and inserting in place thereof the following sentence: — If such evidence is that such percentage was five one-hundredths or less, there shall be a presumption that such defendant was not under the influence of intoxicating liquor, and he shall be released from custody forthwith, but the officer who placed him under arrest shall not be liable for false arrest, if such police officer had reasonable grounds to believe that the person arrested had been operating a motor vehicle upon any such way or place while under the influence of intoxicating liquor; if such evidence is that such percentage was more than five one-hundredths but less than eight one-hundredths, there shall be no presumption; and if such evidence is that such percentage was eight one-hundredths or more, there shall be a presumption that such defendant was under the influence of intoxicating liquor.

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FACTS LOWER LEGAL BAC LEVELS

- Five U.S. states have recently lowered the blood alcohol level at which it is illegal to drive from .10% to .08%. A 155 pound person would have to consume five drinks in an hour on an empty stomach to reach a BAC of .10 and four drinks to reach .08%. States with .08 laws are California, Maine, Oregon, Utah and Vermont.

- Comparison of blood alcohol levels of drivers in fatal crashes nationwide with a national roadside survey of drivers not in crashes, revealed that the risk of fatal crash involvement doubles with each .02 percent increase in blood alcohol. At .08% a driver is 16 times more likely to be involved in a fatal crash. (Source: Paul Zador, Journal of Studies on Alcohol, 52: 302-310, 1992).

- Teenage drivers, because of their lack of driving experience, are 2-3 times more likely per mile driven than older drivers to be involved in fatal crashes, even at .00 BAC. Moreover, each increase in blood alcohol content creates a disproportionately higher likelihood of fatal crash involvement for teenagers relative to adult drivers.
(Source H. Simpson, 1986).

- In January 1990 California lowered its legal BAC limit to .08%. The National Highway Traffic Safety Administration found a 12% reduction in alcohol related traffic deaths in 1990. Arrests for DWI increased after the law. Surveys of drivers in five California counties revealed that 80% of drivers were aware of the BAC threshold being decreased and three quarters believed the risk of being stopped for driving while impaired also increased.
California also passed legislation allowing authorities to suspend without judicial involvement the licenses of drivers who fail or refuse to take blood alcohol tests. Eighty percent of drivers said the risk of license suspension for impaired driving increased after the law.
(Insurance Institute for Highway Safety Status Report 27: March 14, 1992).

Reduced BAC Limits for Young People (Impact on Night Fatal Crashes)

*Ralph Hingson, Timothy Heeren, Jonathon Howland and Michael Winter**

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ABSTRACT

Since 1983 nine states have passed laws that lower the legal BAC level for adolescent drivers. This paper examines fatal crash data in the four states that passed laws before 1989 and have accrued sufficient data for evaluation. Adolescent and adult night fatal crash trends were compared in these states and four nearby states with similar drinking age laws, but which did not lower BAC levels for teen drivers. Equal numbers of pre- and post-law years were examined in each of the four pairs of states. In the four states that lowered their BAC levels for teens there was a 34% post-law decline in night fatal crashes among adolescents targeted by lower BAC levels. Among adults there was a 7% decline in night fatal crashes. In comparison states there was a 26% decline in adolescent night fatal crashes and a 9% decline in adult night fatal crashes. As a group, states that lowered their BAC levels for adolescents had significantly greater post-law reductions in night fatal crashes among adolescents relative to adults ($p<.05$) than was observed in comparison states. This early evidence from the first four states to lower adolescent legal limits suggests this law may help to reduce adolescent involvement in alcohol-related fatal crashes.

Introduction

Progress in Reducing Teenage Drunk Driving in the 1980s

During the 1980s substantial progress was made in reducing drunk driving and related fatal crashes, particularly among teenage drivers. According to the U.S. Department of Transportation Fatal Accident Reporting System (FARS) (U.S. Department of Transportation, 1989), the number of teenage drivers in fatal crashes involving blood alcohol levels above .10 declined 32%, from 2167 in 1982 to 1497 in 1988. The proportion of teenage drivers in fatal crashes with blood alcohol levels above .10% dropped from 28% to 18%. The declines in fatal crashes involving alcohol among teenagers were greater than in any other age group. At the beginning of the decade teenage drivers were more likely to be involved in fatal crashes involving alcohol than any other age group (National Center for Statistics and Analysis, 1989). By the end of the decade that dubious distinction shifted to drivers in the 20–25 year age group.

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Numerous reasons can be cited for the declines. By 1986 all states had increased the minimum alcohol purchase age to 21. Although the effects of increasing the legal drinking age had varied from state to state, reviews of research on the topic comparing states raising and not raising the drinking age concluded that increases in drinking age were generally followed by 10–15% declines in the targeted age groups in nighttime fatal crashes (those more likely to involve alcohol) (National Center for Statistics and Analysis, 1989; Williams et al., 1983; Hingson et al., 1983; DuMouchel et al., 1985; U.S. General Accounting Office, 1987; Phelps, 1990).

The drinking age changes also occurred in a decade when national attention focused on drunk driving among drivers of all ages. From 1980 to 1984 there was almost a fifty-fold increase in the number of articles in major national newspapers that focused on the drunk driving problem (McCarthy et al., 1988). During the same time the Presidential (now National) Commission on Drunk Driving was founded and numerous local citizens' groups, such as Mothers Against Drunk Driving (MADD), Remove Intoxicated Drivers (RID), and Students Against Drunk Driving (SADD), were formed. Education was introduced into school systems across the country about the dangers of drunk driving and during the 1980s over 700 new state laws were passed to reduce drunk driving (Hatos, 1988).

According to general deterrence theory, for a law to have maximum effect in deterring drunk driving, it should insure a high likelihood of apprehension and swift, certain and stringent punishment (Nichols and Ross, 1989). Many of the laws passed during the 1980s sought to achieve those objectives. By 1990, 45 states passed criminal per se laws making it illegal to drive with a blood alcohol level above .08 or .10 (an amount achieved by 4-5 drinks on an empty stomach) (Insurance Institute for Highway Safety, 1990). These laws made it easier to convict drunk drivers, thereby increasing police incentive to stop and charge potential offenders. During the same time, 29 states adopted administrative per se laws permitting police officers to suspend until trial the license of any driver caught driving with a blood alcohol level above the legal limit (Insurance Institute for Highway Safety, 1990). Such laws are designed to deter suspected drunk drivers from operating a motor vehicle between the time of arrest and trial, and pre-trial suspension is a form of punishment more closely related to the infraction than the penalties for being found guilty of drunk driving. Finally, many states increased the fines, jail sentences, and duration of license suspension for drunk drivers. A national study by the Insurance Institute for Highway Safety that compared states enacting these legal changes between 1978 and 1985 found that they were accompanied by an average decline of 5–10% in fatal crashes likely to involve alcohol, and that the administrative per se laws with their license sanctions were particularly effective in reducing traffic fatalities (Hingson et al., 1989).

Continuing Drunk Driving Problems

Unfortunately, despite the drinking age changes, many teens continue to drink. For example, in Massachusetts in 1989, 82% of teens aged 16–19 surveyed statewide (N=1382, response rate 87%) consumed alcohol in the past year and 35% of them drank at least five drinks on typical drinking occasions. Some (7%) used false identification to purchase alcohol, but more (47%) had persons just above the legal drinking age purchase alcohol for them. An inevitable consequence is that many teenagers continue to drive after drinking and to be involved in fatal crashes involving alcohol. In 1988, of the 23,352 persons killed in alcohol-related traffic crashes nationally, 15% (3158) were teenagers aged 15–19. Of the 20,227 drivers who had been drinking prior to fatal crashes, 17% (3432) were aged 20 or younger even though that age group comprises only 9% of the U.S. population.

Moreover, many of the teen drivers in fatal crashes were driving with blood alcohol levels below the legal standard for intoxication in their state. Thirty-nine percent of teens who were drivers in fatal crashes involving alcohol in 1988 had blood alcohol levels below .10 compared to 24% of all drivers.

The continuing disproportionate involvement of teenage drivers in alcohol-related traffic crashes and the disproportionate numbers of teenage drivers in fatal crashes whose blood alcohol levels are below .10 have prompted several states to lower the blood alcohol concentrations considered necessary to indicate legal intoxication among teenage drivers.

In July, 1983, Maine became the first state to pass legislation lowering the legal level of intoxication for teenage drivers. Any driver under age 20 caught driving with a blood alcohol level above .02 (an amount

obtainable after one drink) was guilty of operating under the influence and their provisional driver's license suspended administratively for one year.

Eight other states have followed suit, setting BAC levels at .00, .02, or .05. Most of these states have implemented administrative license suspension of provisional licenses as a penalty (Table 1).

TABLE 1

Lower BAC Levels of Drunk Driving Laws Specific to Adolescents

	Enacted	Penalty, 1st offense	Age	BAC Level
Maine	July 1983	1 yr. administrative license suspension	Initially under 20 Now under 21	.02
North Carolina	Sept. 1983	Administrative license suspension for 45 days or until age, whichever longer	Those under 18 with provisional license	>.00
Wisconsin	July 1984	Administrative 3-month license suspension; community service; $50 fine if charge with Juvenile Alcohol Use	Under 19	>.00
New Mexico	July 1984	Administrative 6-month license revocation	Under 18	.05
Maryland	June 1989	Administrative one-year license suspension; up to $500 fine	Under 21	.02
Oregon	Oct. 1989	Administrative suspension until 18; also charged with DUI	Under 18	>.00
Ohio	July, 1990	Administrative 60-day license suspension	Under 18	.02
Rhode Island	July 1990	$150 fine or 10–60 hours of community service; 6-month administrative license suspension; DUI driving school; involuntary committal to treatment by court	Under 18	.04
Arizona	Oct. 1990	2-year license suspension	Under 21	>.00

The purpose of this report is (1) to examine the effects of Maine's .02 law and (2) explore the aggregate impact of the laws lowering legal BAC limits in all the states that passed those laws before 1989 (Maine, North Carolina, New Mexico, and Wisconsin).

Methods

Maine's .02 Legislation

Because Maine was the first state to lower the legal BAC limit for adolescents, it was given special scrutiny. This paper updates an earlier analysis (Hingson et al., 1989). A quasi-experimental comparison of Maine with Massachusetts was conducted. Massachusetts was chosen for comparison because it has a similar

age of driver licensure and the two states experienced no significant difference in teenage nighttime fatal crash trends over the six years prior to the .02 law.

In each state, 500 teenagers were surveyed when the law was passed, using anonymous random digit dial interviewing (Waksberg, 1978). Within each household, one teenager was randomly selected for interview (Kish, 1965). Teenagers were asked about their drinking behavior, and drinking and driving behavior as well as other risky driving behaviors. Surveys with 1000 teenagers were repeated three times at annual intervals following the law. Teenage survey response rates ranged from 85% to 87%. In addition, citations and suspensions for .02 violations were monitored after the law, and night fatal crash totals were monitored for six years prior to and six years following the law in each state. At the same time as the baseline and the three annual post-law surveys of teenagers in Maine and Massachusetts, 1000 adults in each state were also surveyed annually in a study comparing adult drunk driving laws in each state. Response rates ranged from 70% to 75%. Similar questions concerning drinking and driving were asked in these surveys.

Further, during the year after the law, a random sample of 200 Maine police officers were interviewed by phone about the law. Over 95% responded.

Log linear analysis tested the hypothesis that self-reports of driving after drinking and after heavy drinking would decline among Maine teens relative to Maine adults and Massachusetts teens. Year, age of driver, and state were entered as covariates in the analysis. Log linear analysis also tested whether night fatal crashes (those most likely to involve alcohol) declined significantly among Maine teenager drivers relative to Maine adult drivers and relative to Massachusetts teenage drivers.

Aggregate Effects of Lowered Adolescent BAC Laws in Maine, New Mexico, North Carolina, and Wisconsin

A comparison state was selected for each state that lowered the legal adolescent BAC level prior to 1989. The closest state with the most similar drinking age laws was picked. As noted above, Maine was compared to Massachusetts, New Mexico to Arizona, North Carolina to Virginia, and Wisconsin to Minnesota. Within each state with a lowered adolescent BAC level an equal number of pre- and post-years were examined. In the Maine and Massachusetts comparison, six years preceding and following the .02 law were examined, from July, 1977 through June, 1989. In Wisconsin, and its comparison state Minnesota, we examined five pre- and five post-law years from July 1979 to June 1989. In North Carolina and Virginia, its comparison state, we examined six pre- and six post-law years from September 1977 to August 1989. In New Mexico and its comparison state Arizona we monitored five pre-and five post-law years from July 1979 to June 1989. In each lower BAC state and its comparison we monitored night fatal crashes involving teenage drivers in the age groups targeted by the lower BAC laws as well as among older drivers. The data were aggregated and log linear analysis tested whether in lowered adolescent BAC level states there were (1) significantly greater post-law declines in teen night fatal crashes relative to adult night fatal crashes in the same state, and (2) greater post-law declines in teen night fatal crashes than were experienced by teens in the comparison states.

Results

Maine vs. Massachusetts Survey

As we noted in a previous report (Hingson et al., 1989), the demographic characteristics of teens and adults surveyed in Maine and Massachusetts as well as miles driven in the month prior to the interview did not differentially change among respondents in either state over time, ruling out those factors as potentially confounding results.

As can be seen in Table 2, awareness of the .02 law increased over time. In Maine, by 1986 two-thirds of Maine adolescents understood that driving after one or more drinks was illegal. Fifty-eight percent knew their license could be suspended, but only 29% knew it could be suspended for one year.

TABLE 2

Teenage Awareness of the Maine .02 Law
Before and After the Law

Beliefs about drinking-driving	Before 1983	After 1984	1985	1986	Signif.
Teenagers can drive legally after one drink or less	38%	54%	59%	65%	<.0001
License will be suspended after more than one drink	34%	49%	53%	58%	<.0001
License will be suspended for one year after more than one drink	19%	31%	34%	29%	<.0001

Relative to the Massachusetts teens, the proportion of Maine teenagers who reported driving after drinking during the month prior to the interview declined significantly in the post-law period. Similarly, the proportion who reported driving after 5+ drinks also declined significantly more in Maine than Massachusetts (Figures 1 and 2).

Enforcement of the .02 Law

Teenage drivers in Maine were asked whether in the post-law period they were stopped by the police while driving, whether they had been drinking and whether they had been breath tested or given a citation for violating the .02 law. The 2653 respondents interviewed in the three post-law years were stopped 2180 times by the police; 224 (10%) of the stops occurred after the teens had been drinking. Police breath tested only 19% of those stopped and gave citations to 28 (13%). During the first year of the law, 1500 teenage license suspensions were given to the 85,000 licensed teens in Maine.

Surveys from the Maine police revealed that although three-quarters said they approved the law, at least one-third reported at least one occasion during the first post-law year when they did not breath test a teenager they believed had at least a 50/50 chance of having violated the .02 law.

Night Fatal Crashes

As can be seen in Figure 3, night fatal crashes among adolescents in Maine were 38% lower in the post-law period than they had been in the pre-law period. In contrast, night fatal crashes among Maine adults rose 6% during the post-law period ($p \leq .002$). In Massachusetts, teenage night fatal crashes also declined 35% during the post-law period while adult night fatal crashes declined 22% (Figure 4). The difference in teen and adult trends in that state were not significant. Comparing Maine to Massachusetts, the decline in teen relative to adult night fatal crashes approached but did not achieve significance ($p=.13$).

Aggregate Night Crash Trends in the Lower Adolescent BAC States

In the four states that lowered their BAC levels for teens, there was a 34% decline in adolescent night fatal crashes during the post-law years compared to only a 7% decrease in adult night fatal crashes. During those same years, in the four comparison states that did not pass lower adolescent BAC laws there was a 26% decrease in night fatal crashes among adolescents the same ages as those targeted by lowered BAC levels. Among adults in comparison states, there was a 9% decline in night fatal crashes.

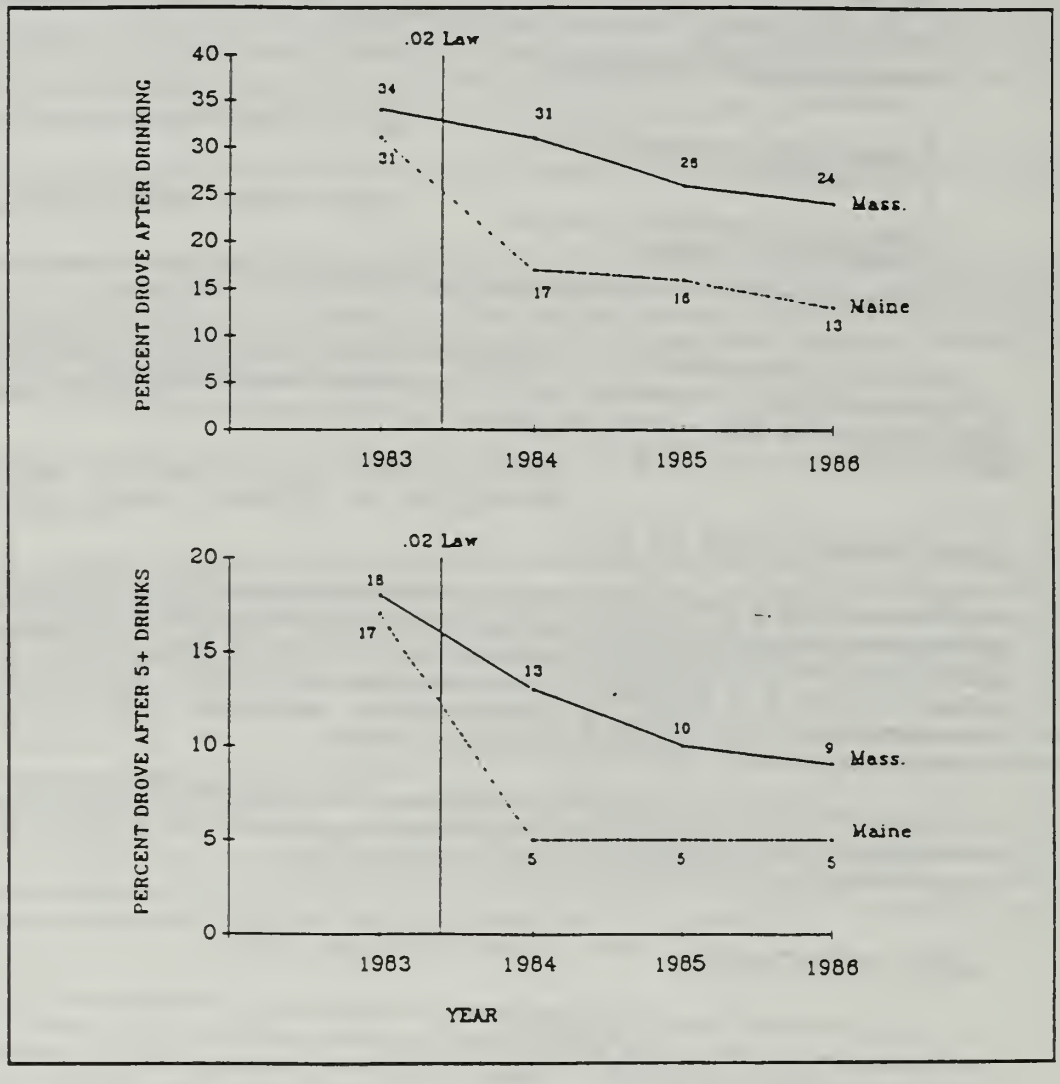


Figure 1. Frequency of driving after drinking in the month before and after Maine's .02 law reported by Maine and Massachusetts teenagers 16–19 [Reprinted from *Alcohol, Drugs and Driving, 5(1):* 28, 1989].

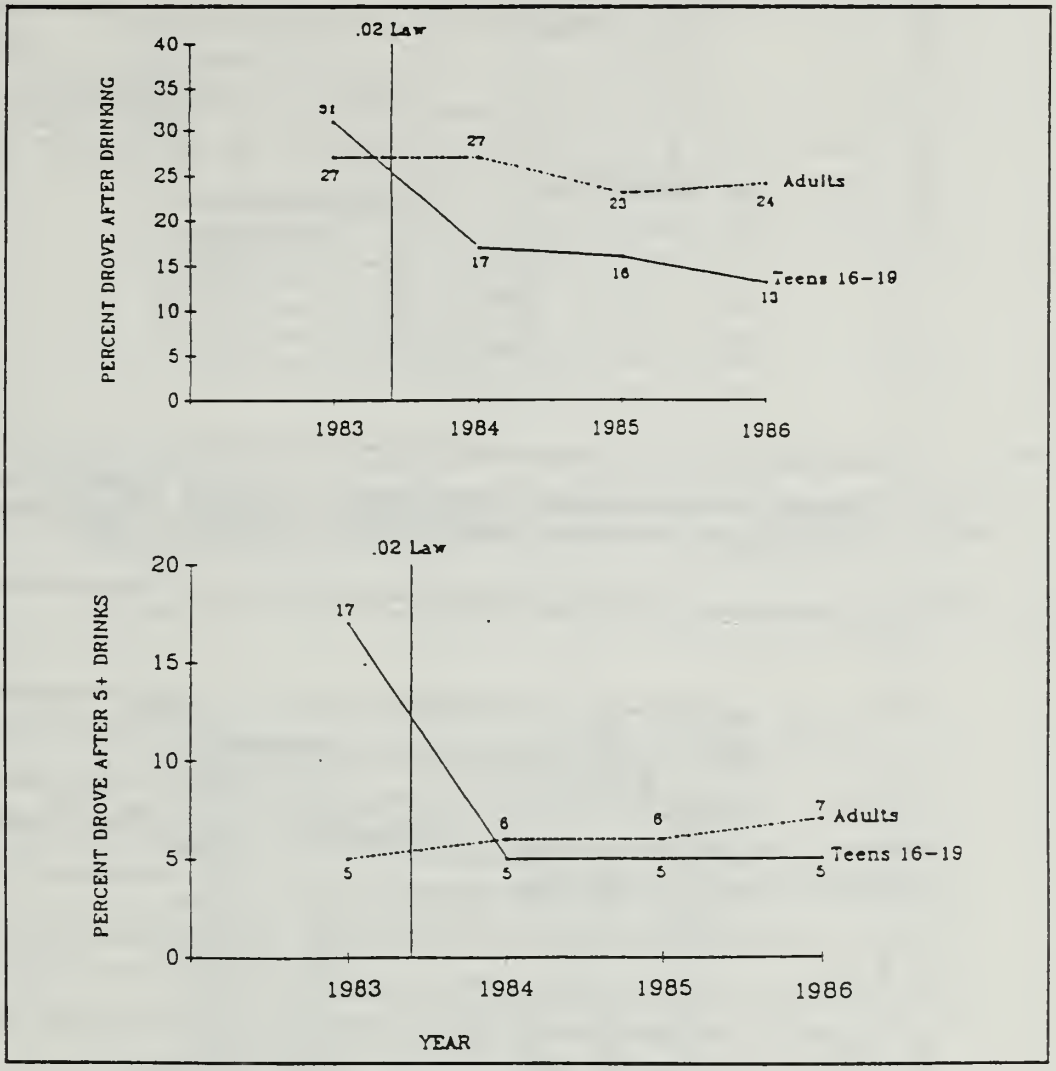
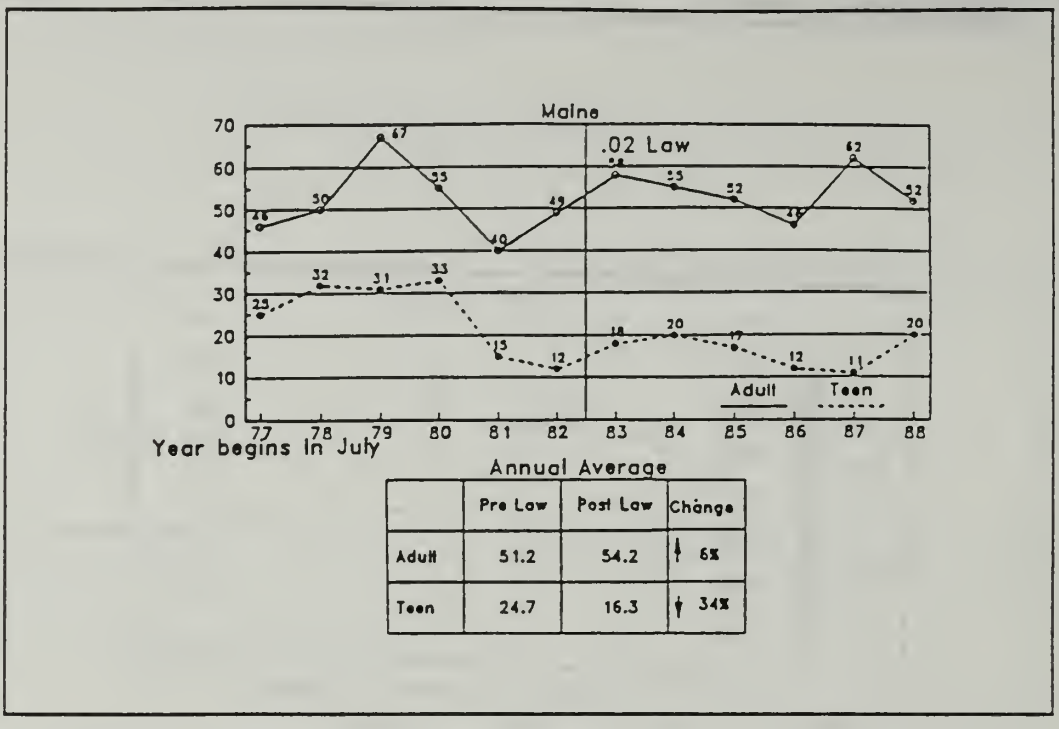


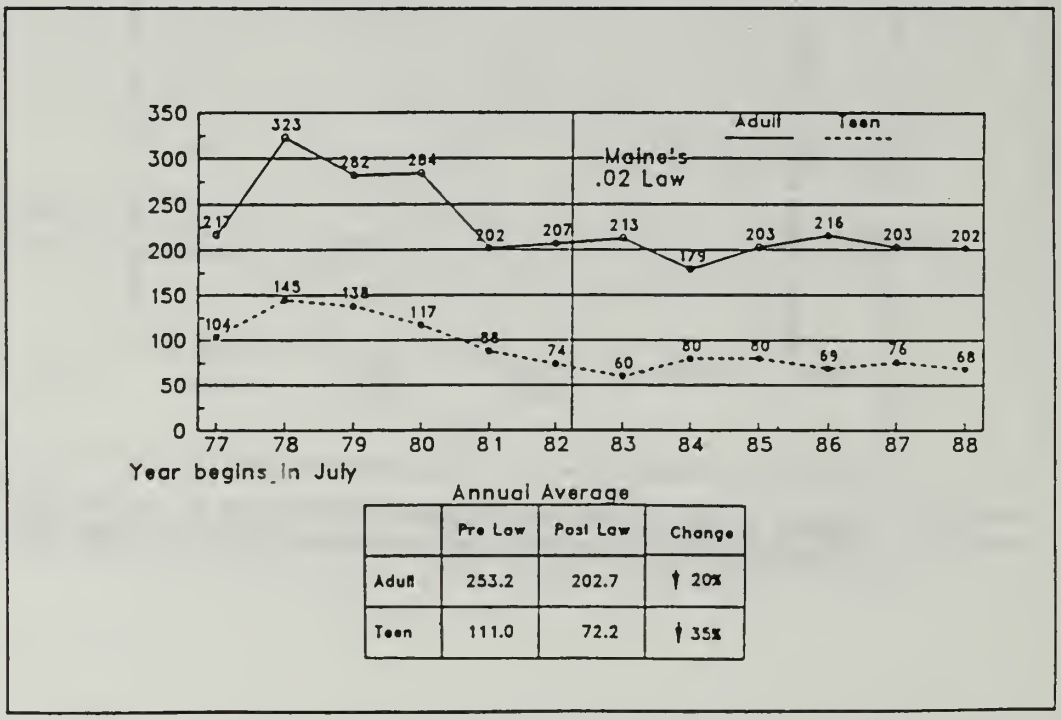
Figure 2. Frequency of driving after drinking in the month before and after Maine's .02 law [Reprinted from *Alcohol, Drugs and Driving, 5(1):* 31, 1989].



Annual Average

	Pre Law	Post Law	Change
Adult	51.2	54.2	↑ 6%
Teen	24.7	16.3	↓ 34%

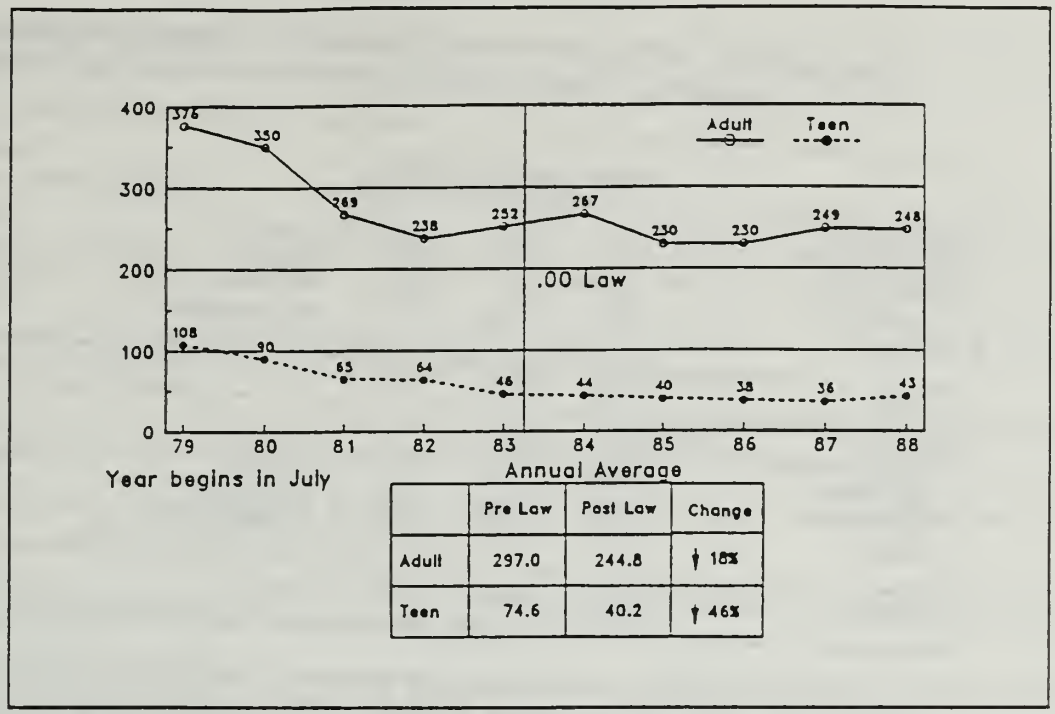
Figure 3. Maine Night Fatal Crashes Involving Teenage and Adult Drivers Before and After Maine's .02 Law for Teen Drivers.



Annual Average

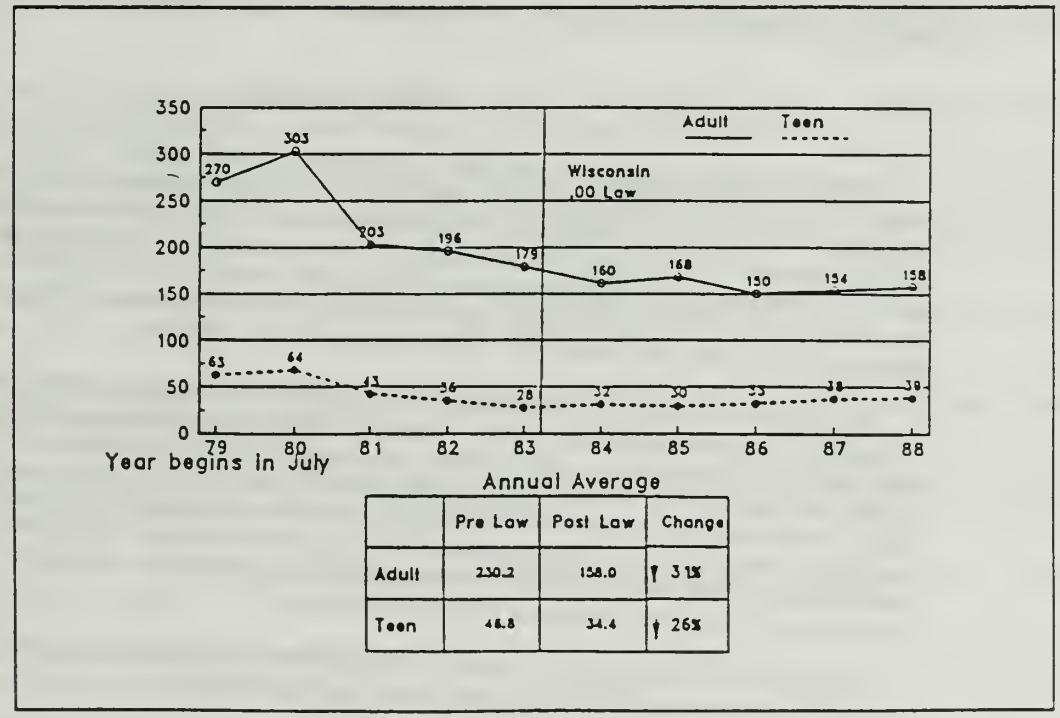
	Pre Law	Post Law	Change
Adult	253.2	202.7	↓ 20%
Teen	111.0	72.2	↓ 35%

Figure 4. Massachusetts Night Fatal Crashes Involving Teenage and Adult Drivers Before and After Maine's .02 Law for Teen Drivers.



	Pre Law	Post Law	Change
Adult	297.0	244.8	↓ 18%
Teen	74.6	40.2	↓ 46%

Figure 5. Wisconsin Night Fatal Crashes Involving Teenage and Adult Drivers Before and After Wisconsin's .00 Law for Teen Drivers.



	Pre Law	Post Law	Change
Adult	230.2	158.0	↓ 31%
Teen	48.8	34.4	↓ 26%

Figure 6. Minnesota Night Fatal Crashes Involving Teenage and Adult Drivers Before and After Wisconsin's .00 Law for Teen Drivers.

TABLE 3

Comparison of Night Fatal Crashes in States Adopting and Not Adopting Lower BAC Levels for Teenage Drivers

	Pre-law	Post-law	Change		Pre-law	Post-law	Change
Adolescents							
North Carolina	310	231	-25%	Virginia	214	175	-18%
New Mexico	87	75	-14%	Arizona	92	116	+26%
Wisconsin	373	201	-46%	Minnesota	234	172	-26%
Maine	148	98	-34%	Massachusetts	666	433	-35%
Total	918	605	-34%	Total	1,206	896	-26%
Adults							
North Carolina	2,820	2,814	--	Virginia	2,123	2,135	--
New Mexico	940	807	-14%	Arizona	1,381	1,448	+5%
Wisconsin	1,485	1,224	-18%	Minnesota	1,151	790	-31%
Maine	307	325	+6%	Massachusetts	1,514	1,216	-20%
Total	5,552	5,170	-7%	Total	6,169	5,589	-9%

The difference between adolescent and adult experiences in the two sets of states is statistically significant ($p<.05$). As a group, states that lowered their BAC levels for adolescents had significantly greater post-law reductions in night fatal crashes among adolescents relative to adults in the same states than were observed among adolescents relative to adults in comparison states. Examining each pair of states individually, the decline in night fatal crashes among teenage relative to adult drivers was greater in each state that lowered its BAC level relative to control states (Table 3), but only in Wisconsin was the adolescent night fatal crash decline significantly greater than that observed in its comparison state, Minnesota ($p<.0007$) (Figures 5 and 6).

Discussion

Several limitations should be considered in interpreting these results. First, we monitored drunk driving through surveys and .02 citations only in Maine. Also, our outcome measure, night fatal crashes, is a surrogate for alcohol involvement. In states with comprehensive alcohol testing, two-thirds of night fatal crashes involve alcohol compared to one-third of daytime crashes (Heeren et al., 1985). A surrogate measure was needed because not all the states in our study comprehensively test blood alcohol levels of drivers in fatal crashes. Third, we have examined lower BAC levels for teens in only four of the nine states with such laws because five were passed in 1989 or later, and a full year of post-law data was not available.

Nonetheless, the results of this analysis offer an early indication that lowered BAC levels are accompanied by lowered adolescent night fatal crashes. Post-law teenage night fatal crash declines in states lowering teenage legal BAC limits are nearly one-third greater than were observed in comparison states. The Maine survey results further indicate declines in heavy drinking and driving after drinking among teenagers when these laws are passed. However, these lowered BAC level laws require substantial educational backup if teenagers are to understand what they limit and the penalties for driving after drinking. The Maine study further indicates that if enforcement of these laws is not active and aggressive, many teens may be stopped by police after drinking, but not penalized. That could undermine the law's effectiveness.

The utility of passive alcohol sensors in conjunction with these laws should be assessed to determine whether that would increase police ability to detect teenage drinking.

On balance, the early evidence from the first four U.S. states to lower adolescent BAC legal limits suggests that this law helps to reduce adolescent involvement in alcohol-related fatal crashes; it warrants consideration in other states.

ACKNOWLEDGEMENTS

Supported by grants from the National Institute on Alcohol Abuse and Alcoholism RTO1 AA07536 and RO1 AA06494 and The Commonwealth Fund 6263.

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Boston Herald 3-23-92

A wrist slap for ex-Celtic

In response to Leonard Greene's column "Punishment doesn't always fit the crime" (March 16):

Greene was correct when he stated Charles Smith was responsible for the death of Michelle Dartley and An Trinh. He was mistaken to say that this was an accident. I don't believe Smith meant to kill those girls but the simple fact is, he did.

Smith did not receive the maximum sentence allowable by law on the charges he was found guilty of. He was convicted on two counts of vehicular homicide and was sentenced to 2½ years. It could have been five years. Smith was found guilty of two counts of leaving the scene after causing bodily injury. He could have received a sentence of two years for each count. He received two years, total. Smith only got a slap on the wrist.

Marian Stokes,
Mothers Against Drunk Driving
Medford

Presidents and broken promises

With all the comments that we've been hearing the past few weeks about George Bush breaking his promise of "no new taxes," perhaps several notable precedents would be in order.

Combatting drunk driving

Ideally, not a single person would ever die in an alcohol-related traffic fatality. But of the 44,529 people killed by motor vehicles in 1990, 22,083 died either because they or someone else had been drinking and driving.

One of the goals of Mothers Against Drunk Driving is to reduce alcohol-related deaths by 20 percent by the year 2000. It's a modest objective, yet formidable, because many people still believe it's okay to have a few drinks before driving. For young people, alcohol is still a rite of passage.

But mothers whose children have been killed by drunk drivers, along with clergy, physicians, educators, and lawmakers, will try today to convince the Criminal Justice Committee that this attitude has to change. Speaking at the State House, they are expected to urge legislators to lower the legal blood alcohol content limits for drivers from .10 to .08, a standard that has reduced nighttime fatal crashes in states which have adopted it.

They will also exhort legislators to make it illegal for those under 21 to drive with *any* measurable level of blood alcohol. Current law treats under-21 offenders the same as over-21 offenders, although it's against the law for minors to be drinking at all. MADD wants a one-year minimum loss of license for those under 21 who are found to have *any* alcohol in their system.

Middlesex District Attorney Tom Reilly is also scheduled to speak to legislators about increasing the penalties for repeat offenders found guilty of operating under the influence three times or more.

Last week, Reilly testified before the Joint Committee on Natural Resources in support of a bill aimed at those who operate boats under the influence of alcohol. Right now, there are no minimum mandatory penalties for drunken boaters, no increased penalties for repeat offenders, no mandatory educational or treatment programs and no combining drunken boating and drunken driving records.

Even when a drunken boater kills someone, it is still only a misdemeanor. Reilly wants the same penalties imposed on boaters that are imposed on drivers.

If these proposals are defeated and standards and attitudes don't change, the numbers won't change, either. Some 22,000 people will continue to die in alcohol-related crashes every year; 355,000 will be injured, 96,000 seriously. Two of every five of us will be in an alcohol-related crash some time in our lives.

If the legislation is enacted and the penalties for breaking the rules get tougher, the numbers will decrease, and lives will be saved.

Isn't that what all of us — not just MADD — want?

Boston Herald 3-24-92

DA Reilly targets worst drunk drivers

Middlesex County District Attorney Thomas Reilly petitioned the Legislature yesterday to approve a bill that would allow judges to send repeat drunken-driving offenders to prison for up to 10 years.

Reilly said education and treatment are not always effective in dealing with chronic offenders.

"In many cases, they are serving the maximum sentence, but that's not enough," Reilly told the Criminal Justice Committee.

Under the bill he supported, judges could sentence motorists convicted of a fourth offense of operating under the influence to prison for up to 10 years. Reilly said he expected he could enlist the support of other district attorneys.

"I'm not sure it goes far enough," the prosecutor said. "It's clear to me we need a change in our philosophy. There are individuals out there who cannot be educated and cannot or will not be treated. These individuals are motor vehicle homicides waiting to happen."

Reilly also endorsed a bill sponsored by Gov. William F. Weld to lower the blood-alcohol level under which drivers are presumed to be drunk to .08 from .10.

Reilly said he supports the lower level because he believes attitudes toward drunken driving will change if laws are made tougher.

> "In many cases, they are serving the maximum sentence, but that's not enough"
>
> — Thomas Reilly

Rep. James Marzilli, D-Arlington, urged endorsement of a bill that would create a new parole option for drunken drivers.

Under his plan, a drunken driver could, at his or her choice, spend time in a coroner's office, a center for chronic alcoholics or a hospital emergency room to see some results of drinking and driving.

Marzilli said a similar program in Orange County, Calif., was a success. Marzilli said his bill calls for those who participate to sign a waiver exempting the state from any emotional damage they might suffer.

The hearing was attended by 46 students from the Auburn Middle School, all members of Students Against Driving Drunk.

They also asked lawmakers to endorse stricter laws.

"There are very few of us here who have not ben affected in some way by drunk driving. We are making a statement because we are potential victims. The first offense is serious enough," said Nicole Gribbons, an eighth-grader.

Section D

Rape and Sexual Assault

WORKSHOP D: RAPE AND SEXUAL ASSAULT

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STARTLING FACTS ABOUT RAPE

- Rape is a crime of violence motivated by a need to show power over or to express anger against another person. Sex is used as the weapon.

- Rape is no respecter of age. Victims range in age from several days to over 100.

- Rape is no respecter of gender. Boys and men are raped by heterosexual men who want to show power or to express anger. An estimated 1 out of every 12 rape victims is male (National Crime Survey, 1989).

- Rape is no respecter of relationship. A woman's risk of being raped by someone she knows is 4 times greater than being raped by a stranger (Robin Warshaw, I Never Called It Rape, 1988).

- In 1989, 94,504 rapes were reported in the US. Based on reports to police, 16 rapes are attempted and 10 women are raped every hour (FBI Uniform Crime Report, 1989).

- For years following a rape, 60% of rape victims experience post traumatic stress disorder and 16% still suffer with emotional problems 15 years following the rape (HRS Rape Awareness Program, Tallahassee, FL, 1987).

- Rape is the most underreported violent crime, with only 5% to 20% reporting (Helen Benedict, Recovery: How To Survive Sexual Assault, 1985).

- 1 woman in 3 will be raped in her lifetime (Los Angeles Commission on Assaults Against Women, 1985).

- 1 in 4 girls and 1 in 7 boys will have been sexually assaulted by age 18 (Russell, 1983; Finkelhor, 1978; Sgroi, 1978).

- 10% of all rape victims are under age 5 (Robert Geiser, The Hidden Victim: The Sexual Abuse of Children, 1979).

- 27% of girls aged 15 to 19 have been victims of rape or attempted rape. 84% of these victims knew their attacker (Koss, 1987).

- 83% of child molesters are heterosexual; the remaining 17% are bisexual (A. Nicholas Groth, Why Men Rape, 1979).

- 10% to 14% of all married women have been raped by their husbands (Diana Russell, Rape in Marriage, 1983).

- Offenders who begin their sexual victimization "careers" in the teenage years commit an average of 380 sexual crimes by the time they are caught as adults (Abel, Mittleman, and Becker, 1984).

Statistics from the National Coalition Against Sexual Assault
For more information, Contact the Educator/Advocate Program at 545-3474

Rape: Myths & Realities

Myth: Women who are raped ask for it.

Fact: Rape is not sex, it is a crime of violence and power. Rape is a violation of a person on both physical and emotional levels. Rape is a violent act through which a woman loses total control of her life. Most rape survivors report that they genuinely thought they were goin to be killed during the assault. No one asks for an experience like this... No one asks to be raped.

Myth: Only young, beautiful women are raped.

Fact: Philadelphia General Hospital reports treating rape victims ranging in age from 18 months to 85 years old. In 1982, in Springfield, MA, a 64 year old nun was robbed, raped and beaten. One-out-of-every-three women, in the United States, will be raped in her lifetime. Most rapists report that vulnerability is what they look for in a victim. This means that women, children, people with disabilities or people with other "societal identities" which define them as vulnerable, are the most common targets of sexual assault.

Myth: Most rapes occur between members of different racial groups.

Facts: 93% of all rapes occur between members of same racial group.

Myth: Rape is an impulsive act of sexual frustration.

Fact: 90% of all rapes are considered planned or premeditated; 2/5 of all rapists have an active sexual partner or are married. This myth implies that rapists are animalistic, with no control over their sexual drive and desire. Psychological study and everyday life experience tells us this is not the case.

Myth: Rape occurs primarily in back alleys, "bad" neighborhoods, at night and by strangers.

Fact: Rape occurs everywhere. It has no boundaries of day or night, socio-economic level class, home or street: 65% of all rapes occur either in the victim's or assailant's home; in over 50% of reported rapes, the rapist knew the victim well, over 95% of those convicted of raping children are relatives of close friends of their victim's family.

Myth: Rapists are psychopathic or otherwise deranged. They are easily picked out of a crowd.

Fact: Only 3% of all rapes are the psychotic, sadistic experiences which we see portrayed the most by media. Rapists differ from so-called "normal" men only in that they tend to be much more aggressive and they are intensely subscribed to "macho" roles. They may also lack significant self confidence and be very insecure. A rapist can be anyone... father, brother, uncle, clergyman, teachers, doctor, students... from all walks of life.

Myth: Men cannot be victims of sexual assault.

Fact: 93% of rape victim's are female and 7% are male. One-in-seven males under age 18 will be a victim of sexual assault. Statistics that indicate that the clear majority of these assaults happen to boys under the age of 12, or to men who are in prison.

Myth: Gang rapes account for an extremely small percentage of the total rapes in the United States.

Fact: Pair or gang rapes account for at least 40% of all rapes. 97% of gang rapes and 92% of pair rapes are planned. These rapes can occur anywhere and are perpetrated by men of all ages, [illegible]

Statistics are from FBI, Mass. Dept. of Public Safety, Mass. Dept. of Public Health; Compiled by the Educator/ Advocate Program of the Everywoman's Center/UMass, Amherst / SLR/89

Massachusetts Rape Shield Law, M.G.L. c. 233, s. 21B

§ 21B. Evidence of Victim's Sexual Conduct.

Evidence of the reputation of a victim's sexual conduct shall not be admissible in any investigation or proceeding before a grand jury or any court of the commonwealth for a violation of sections thirteen B, thirteen F, thirteen H, twenty-two, twenty-two A, twenty-three, twenty-four and twenty-four B of chapter two hundred and sixty-five or section five of chapter two hundred and seventy-two. Evidence of specific instances of a victim's sexual conduct in such an investigation or proceeding shall not be admissible except evidence of the victim's sexual conduct with the defendant or evidence of recent conduct of the victim alleged to be the cause of any physical feature, characteristic, or condition of the victim; provided, however, that such evidence shall be admissible only after an in camera hearing on a written motion for admission of same and an offer of proof. If, after said hearing, the court finds that the weight and relevancy of said evidence is sufficient to outweigh its prejudicial effect to the victim, the evidence shall be admitted; otherwise not. If the proceeding is a trial with jury, said hearing shall be held in the absence of the jury. The finding of the court shall be in writing and filed but shall not be made available to the jury. (1977, 110; 1983, 367.)

Bill to Amend the Rape Shield Law

[Similar Matter Filed During Past Session — See Senate No. 646 of 1991.]

SENATE . . . . . No. 719

By Mr. Bertonazzi, petition (accompanied by bill, Senate, No. 719) of Louis P. Bertonazzi for legislation to extend the rape shield law, so-called. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT EXTENDING THE RAPE SHIELD LAW, SO-CALLED.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 233 of the General Laws is hereby amended by inserting after section 21B the following new sections: —

Section 21C. Evidence of the reputation of a victim's sexual conduct shall not be admissible in any civil action in which the victim is a party. Evidence of specific instances of a victim's sexual conduct in such proceeding shall not be admissible except evidence of the victim's sexual conduct with the person alleged to be the victim's assailant, or evidence of recent conduct of the victim alleged to be the cause of any physical feature, characteristic, or condition of the victim; provided, however, that such evidence shall be admissible only after an in camera hearing on a written motion for admission of same and an offer of proof. If, after said hearing, the court finds that the weight and relevancy of said evidence is sufficient to outweigh its prejudicial effect to the victim, the evidence shall be admitted; otherwise not. If the proceeding is a trial with jury, said hearing shall be held in the absence of the jury. The finding of the court shall be in writing and filed but shall not be made available to the jury.

Section 21D. A victim of a crime which results in physical or mental injury to the victim, or a victim of a crime which involves sexual conduct, who brings a civil action in any court of the Commonwealth, shall have the right to bring said action in a fictitious name, provided that the victim shall file an Affidavit with the court, stating the victim's true name and address, which shall be served upon all parties to the action. Said affidavit shall contain a statement in the heading "Impounded Under G.L. c. 223, s21D." and shall be automatically impounded by the clerk or register of the court in which it is filed. In all documents filed with the court, the victim shall be referred to only by the fictitious name and no address, or other identifying data, shall be stated or used by any party.

M.G.L. Chapter 112: Physicians and Surgeons

M.G.L. Chapter 112, Section 12A ½ : Rape Reporting Law:

Every physician attending, treating, or examining a victim of rape or sexual assault, or, whenever any such case is treated in a hospital, sanitorium or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the commissioner of public safety and to the police of the town where the rape or sexual assault accurred but shall not include the victim's name, address, or any other identifying information. The report shall describe the general area where the attack occurred.

Whoever violates any provision of this section shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars.

NOTE: This section became effective December 26, 1991. Senate Bill 763 was scheduled for a hearing before the House Judiciary Committee on April 1, 1992, and would amend this section by specifically limiting the information that could be contained in a report of a rape or sexual assault to safeguard the identity of the victim. Furthermore, the amendment would exempt from the reporting requirement any rape or sexual assault that occurred six months prior to the date at which the victim seeks treatment.

9005A

[Similar Matter Filed During Past Session — See Senate No. 684 of 1991.]

SENATE . . . . . No. 763

By Mr. Keating, a petition (accompanied by bill, Senate, No. 763) of William R. Keating, Louis L. Kafka and Michael W. Morrissey for legislation relative to the reporting of certain sexual crimes. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO THE REPORTING OF CERTAIN SEXUAL CRIMES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 112 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by adding after section 12 the following new section: —

Section 12A½. Every physician attending, treating or examining a victim of rape or sexual assault or whenever any such case is treated in a hospital, sanatorium, clinic or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the commissioner of public safety, to the rape reporting and prosecution unit as established under section 97B of chapter 41 and to the chief of police of the town where the rape or sexual assault occurred. Said report shall not include the victim's name, address or any other information identifying the victim. The report should only contain the location of the incident; in the case that the address or place that said rape or sexual assault occurred is an identifying factor, the party required to make the report shall delete said address but may substitute an approximate location with a more general description.

If the rape or sexual assault occurred six months prior to the date at which the victim seeks treatment there shall be no such reporting requirement imposed.

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HOUSE . . . . . No. 1526

By Mr. Magnani of Framingham, petition of David P. Magnani relative to prohibiting a victim's mode of dress as admissible evidence in the trial of rape cases. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT FURTHER REGULATING THE TRIAL OF RAPE CASES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 233 of the General Laws is hereby amended by inserting after section 21B the following section: —

Section 21C. Evidence of a victim's mode of dress shall not be admissible in any investigation or proceeding before a grand jury or any court of the commonwealth for a violation of sections twenty-two, twenty-two A, twenty-three, twenty-four and twenty-four B of chapter two hundred and sixty-five.

[Similar Matter Filed During Past Session — See Senate No. 776 of 1991.]

SENATE . . . . . No. 851

By Ms. Pines, a petition (accompanied by bill, Senate, No. 851) of Lois G. Pines for legislation relative to protecting confidentiality of victims of rape. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO PROTECTING THE CONFIDENTIALITY OF VICTIMS OF RAPE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 24C of Chapter 265 of the General Laws is hereby amended by inserting after the word "name" in the first sentence the following: — or other identifying data.

HOUSE . . . . . No. 885

By Mr. Brewer of Barre, petition of Stephen M. Brewer relative to expanding the scope of prior convictions for the sentencing of subsequent rape offenders. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT EXPANDING THE SCOPE OF PRIOR CONVICTIONS FOR THE SENTENCING OF SUBSEQUENT RAPE OFFENDERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 22 of chapter 265 of the General Laws is hereby amended by striking out the second paragraph of subsection (a).

SECTION 2. Section 22 of chapter 265 of the General Laws is hereby further amended by striking out the second paragraph of subsection (b).

SECTION 3. Section 22A of chapter 265 of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following: —

Whoever has sexual intercourse or unnatural sexual intercourse with a child under the age of sixteen, and compels said child to submit by force and against his will or compels said child to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for life or for any term of years.

SECTION 4. Section 23 of chapter 265 of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following: —

Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under sixteen years of age shall be punished by imprisonment in the state prison for life or any term of years, or, except as otherwise provided, for any term in a jail or house of correction.

SECTION 5. Chapter 265 of the General Laws is hereby further amended by adding the following:

Section 23A. Any person convicted of violating the provisions of sections 22, 22A, or 23 of this chapter after one or more prior convictions for violations of sections 22, 22A, or 23 of this chapter under this or any prior law of this jurisdiction or of any offense of any other jurisdiction, federal, state or territorial, which is the same as or necessarily includes the elements of said offenses shall be punished by a term of imprisonment in the state prison for life or for any term of years, but not less than five years.

HOUSE . . . . . No. 1843

By Mr. Galvin of Canton, petition of William C. Galvin for legislation to increase the penalties for rape. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO THE PENALTIES FOR RAPE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 22 of Chapter 265, as appearing in the 1990 Official Edition, is hereby amended by adding, in line 12, after the word "years", the words, "provided however, that no such term of imprisonment shall be for a term of years less than thirty"; and further, by deleting, in lines 16 through 19, the words "until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences"; and further, by striking out, in line 24, the word "more", and inserting in place thereof, the word "less"; and further, by adding, in line 26, after the word "years", the words, "provided, however, that no such term of imprisonment shall be for a term of years less than thirty", and further, by adding the following new paragraph, after line 12. —

"Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life";

and further, by deleting, in lines 30 through 33, the words, "until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences"

AN OVERVIEW OF

COMMONWEALTH V. STOCKHAMMER:

By

Betty Eng, Assistant Attorney General

Jane E. Tewksbury, Assistant Attorney General

I. Overview of the Stockhammer Decision

The Supreme Judicial Court decision in Commonwealth v.Stockhammer, 409 Mass. 867 (1991), concerning access to privileged records, is having a significant impact on the prosecution of sexual assault cases. Specifically, the SJC ruled that, the defense counsel in Stockhammer must be permitted to review the victim's psychotherapist and social worker records, which had been subpoenaed into court.

In Stockhammer, an appeal of conviction for rape and assault with intent to commit rape, the SJC reversed and remanded the case for a new trial, based on the trial Judge's improper limitation of the defendant's cross-examination of the victim. Id. at 880. For purposes of the retrial, the Court announced new procedures for examination of confidential records under Article 12 of the Massachusetts Declaration of Rights. Id. at 881, 884.

After trial, it was disclosed that the victim had received in-patient treatment from February 1-6, 1989, several months after the alleged incident on April 19, 1988, but prior to the initiation of the criminal case on March 30, 1989. Neither the defense counsel nor the prosecutor had any prior knowledge of this post-incident treatment.

The SJC concluded that under Article 12 of the Massachusetts Declaration of Rights, counsel for the defendant was entitled to review the records of the victim's in-patient treatment, as well as the records of meetings from February 7 through June 6, 1989 with a licensed social worker not affiliated with the hospital. The SJC determined that counsel for the defendant would be able to review these records, which had previously been subpoenaed, to look for evidence of bias, prejudice, or motive to lie.

II. Implications for Victims

As a result of Stockhammer, questions concerning the potential disclosure of a sexual assault victim's social worker and psychological records will now have to be addressed by prosecutors and therapists. In view of these questions, it will be helpful to be keep the following in mind:

1. Disclosure is limited to records that are relevant material and to which defense counsel has a "legitimate need" for access.

Defense counsel must make a sufficient preliminary showing to the judge that the records sought are relevant, material and for which defense counsel has a legitimate need. In Stockhammer, it was argued that the records were likely to contain evidence of bias, prejudice, or motive to lie.

Although Stockhammer has caused a flood of motions by defendants' counsel to gain access to a broad range of victims' records, to conduct in essence a "fishing expedition" or to search for any possibly exculpatory evidence, the Stockhammer decision does not support such a conclusion. In Stockhammer, defense counsel had already made the required preliminary showing before the records were allowed to be subpoenaed to court.

2. Limited to Post-Incident Treatment

The records sought in Stockhammer involved post-incident psychiatric and social worker records. The defendant will have a more difficult time demonstrating a "legitimate need for access" to pre-incident records. Commonwealth v. Two Juveniles, 397 Mass. 261, 269 (1986).

3. Limited to Psychologist and Social Worker Records:

Communication with rape counselors (whether at a community-based rape crisis center or at a hospital) are still protected by an absolute privilege against disclosure under M.G.L. Chapter 233, Section 20J. Stockhammer did not infringe upon this absolute privilege.

4. Limited to State Constitutional Right

The Stockhammer Court based its decision on Article 12 of the Massachusetts Declaration of Rights and declined to follow a line of cases based upon the federal Constitution which had also considered the right to a fair trial versus the victim's interest in preserving the confidentiality of her privileged communications. The majority of states and the United States Supreme Court have found that an in camera inspection of the records by a judge adequately protects the defendant's rights to a fair trial and preserves the confidentiality of the records. See Pennsylvania v. Ritchie, 480 U.S. 39 (1987).

5. Limited to an In Camera Review

Stockhammer now expands the number of people who may view the records in camera to include the prosecutor and the defense counsel and provides strict requirements as to how defense counsel's access to records is accomplished.

6. Access to records does not mean admission of the records into evidence at trial

In Stockhammer, the SJC held that "admission of or reference to [privileged records] at trial could be conditioned on a determination made after an in camera hearing that the information counsel seeks to use is not available from any other source." Id. 409 Mass. at 883.

Although there have been cases decided since Stockhammer which have cited Stockhammer as authority to allow defense counsel access to privileged records, all of these cases occurred before the Stockhammer decision was issued and expand Stockhammer beyond the court's strict ruling. Unfortunately, there has not been a case since Stockhammer which has directly asked the court to re-examine the parameters of the Stockhammer decision.

What is clear is that the already difficult issues faced by sexual assault victims in deciding whether or not to report the assault have been further complicated by the Stockhammer decision.

8089A

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
CRIMINAL ACTION
NO.

COMMONWEALTH

vs.

ORDER

Upon consideration of the defendant's Motion for discovery of the victim's treatment records, and pursuant to Commonwealth v. Stockhammer, 409 Mass. 867 (1991), it is hereby ORDERED that such records shall be produced to counsel for the defendant subject to the following terms and conditions:

1. Counsel for the defendant shall have access to the victim's treatment records solely in his capacity as an officer of the Court. Counsel for the defendant shall not disclose or disseminate any portion of the contents of the treatment records to anyone, including the defendant, without prior application to and an order of the Court.

2. The treatment records sought by the defendant shall be made available to counsel for the defendant for review in the Court House during regular business hours under arrangements to be made with the Clerk. Counsel for the defendant may read and make notes concerning the treatment records, but no portion of the treatment records shall be photocopied or reproduced without prior

application to and an order from the Court.

3. Counsel for the defendant shall not offer or adduce any portion of the victim's treatment records into evidence at trial or in connection with any other proceeding without prior application to and an order of the Court. At a minimum, counsel for the defendant shall be required to show, in an in camera submission, that the information to be offered or adduced in evidence is not available from any other source. The Court will then conduct an in camera hearing concerning the admissibility of any information in the treatment records that counsel for the defendant may wish to use at trial or in connection with any other proceeding.

4. At the conclusion of any trial or other disposition of this action, counsel for the defendant shall deliver to the Clerk, under seal, all originals and all copies of any treatment records produced to counsel for the defendant pursuant to any subsequent order of the Court.

_____

Peter M. Lauriat
Justice of the Superior Court

Dated: , 1991

Clinical Overview of Stockhammer Outline

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Since the mid-1970's, community and hospital-based rape crisis centers in Massachusetts have been confronted with the questions of how to adequately document their interventions with sexual assault victim/survivors from a clinical and legal perspective. We have had to balance the need for recordkeeping that reflects an adequate standard of medical and psychological care with the potential legal interface that will take place if a victim/survivor decides to enter the criminal justice system. Today we are here to discuss the clinical implications of the Stockhammer decision and how, in light of this decision, we can continue to provide medical, psychological and legal assistance in a way that best addresses the needs of the sexual assault victim/survivor.

I. Historical overview of rape crisis intervention clinical documentation:

- pre-1984: various professional privilege statutes which covered licensed clinicians
- Rape Crisis Counselor Privilege Law (1984)
- Commonwealth v. Two Juveniles (1986) - in camera inspection
- Commonwealth v. Stockhammer (1991) - direct access to past-incident psychiatric and social worker records

II. Clinical issues of documentation

- Ethical and practical considerations of clinical records
- Impact of theoretical advances in understanding rape trauma syndrome and post-traumatic stress disorder (DSM-IIIR 309.89)

III. Impact on the client/therapist relationship in view of the legal and clinical changes discussed above.

Presented at Commonwealth v. Stockhammer, Legal and Clinical Implications, Dec. 13, 19

M.G.L. Chapter 41: Cities, Towns, and Districts

M.G.L. Chapter 41, Section 97D: Confidentiality of rape and related offenses; violations; penalties:

All reports of rape and sexual assault or attempts to commit such offenses and all conversations between police officers and victims of said offenses shall not be public reports and shall be maintained by the police departments in a manner which will ensure their confidentiality. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or both.

9006A

Psychological Factors

The Overlooked Evidence in Rape Investigations

". . . the major coping task of the rape victim is not to avoid sexual contact but to survive."

By
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The rape investigation is frequently one of the most challenging and frustrating tasks a police investigator can undertake. When the victim is beaten into insensibility and requires immediate medical treatment or is discovered half dead, nude, and tied to a tree, an investigator can reasonably conclude that a criminal offense has occurred. The investigator is then tasked to collect and preserve evidence and to identify the perpetrator(s). Fortunately, a large percentage of rapes reported to police involve little, if any, physical injury to the victim. The major task confronting the investigator is to prove that the sexual act occurred "by force and without consent."

Juries have been reluctant to convict accused rapists unless the victim was clearly brutalized. Thus, the victim with scars on her body left by a knife-wielding rapist will have little trouble proving her case, while the woman who bears only the mental scars is unlikely to see justice done.

This problem is exacerbated when the behavior of the victim during and after the incident is in some manner contrary to what is traditionally expected of someone who has just experienced a "fate worse than death." Woe be unto the rape victim who, for reasons of shock, fear, humiliation, or confusion, waits more than a matter of minutes to report her ordeal. Even if she reports the incident within minutes, investigators and jury members are likely to be skeptical of her report if she appears calm and collected. Similarly, she is expected to engage in at least passive resistance; submissive acts during the incident are very often equated with consent.

This situation is changing rapidly, however. Behavioral scientists studying both rapists and their victims have made some rather startling findings about the behavior of rape victims. Many of these findings expose traditional views of "appropriate" victim behavior as having been based solely on myths and misconceptions inherited from bygone eras. These studies have emphasized the life-threatening nature of the rape episode, which is often difficult for males to understand. Yet, evidence indicates that females are affected by fear to a much greater extent than males.[1]

The typical rape victim's behavior is terror-induced, pseudocalm, and detached during the rape episode. One prominent researcher found:

> "The first and immediate response of all individuals to sudden unexpected violence is shock and disbelief. When realization sets in, the vast majority of victims then experience fright which borders on panic. This fright-panic response is especially true when the individual feels his life to be in imminent danger. In violent crimes, particularly crime where there is prolonged contact with the criminal, such as in the crime of rape, the feeling of impending peril

Mr Griffiths

to the victim is deliberately produced by the criminal. He shows the victim a knife or a gun, sometimes hits the victim, and always makes extreme verbal threats to the victim's life unless she complies. When a victim experiences fright bordering on panic there is a heightened distortion of perceptive thinking and judgment. All behavior is directed at self-preservation. Most learned behavior seems to evaporate, and the victim responds with the adaptive and innate patterns of early childhood. I have called this response traumatic psychological infantilism." [2]

Thus, the major coping task of the rape victim is not to avoid sexual contact but to survive.

Examination of a victim's coping strategies by mental health professionals can often result in expert testimony that explains questionable actions the victim may have taken. To preserve such evidence properly, the interviewing officer should document not only the sequence of events but also the coping behavior of the victim during the attack.

Victim Coping Strategies During Sexual Attacks

The first coping behavior expected by the public of a rape victim is physical resistance. A major study revealed, however, that only about one-fourth of rape victims physically struggle with their attackers.[3] Even many of those who initially struggle quit when they realize they cannot escape. The majority opt for verbal tactics, such as stalling for time, reasoning with the assailant to try to change his mind, trying to gain his sympathy, flattering him, bargaining with him, trying to change his perception of them, verbal aggression, or joking and sarcasm. While the rape is in progress, some victims try screaming and crying in the hope of attracting help, while others talk quietly with their assailant in hopes of avoiding additional violence. Then, when the attack is over, the victim may have to bargain with the rapist for her freedom by promising not to report the incident or not to move for a specified time. Other victims adopt cognitive strategies, such as concentrating on how to escape, how to keep calm, or how to avoid injury. They may also recall advice given to them by others about what to do in a rape situation or how they have handled violent situations in the past. Some concentrate on the rapist's physical description, vehicle, and remarks to provide leads for the police. Finally, many victims simply comply with the rapist's demands as a strategy to "speed it up . . . get it over with."[4]

This behavior may readily be misinterpreted as consent by persons not familiar with the psychodynamics of stress in violent situations. In point of fact, research disclosed that:

> "The behavior of the vast majority of women during their contact with rapists demonstrates this traumatic psychological infantilism. In the atmosphere of primal terror, not only do people submit, but also psychological infantilism, with its consequent helplessness, makes it appear to the outsider that their behavior was friendly and cooperative. It is a response of frozen fright that

"The source of most psychological evidence of force lies in the nature of the victim's reactions after the incidents."

confuses everyone; the rapist, the victims's family, her friends, the police, and even the victim herself. . . . The frozen fright response of psychological infantilism looks like cooperative behavior. The victim may smile, even initiate acts, and may appear relaxed and calm. But frozen fright has its roots in profound primal terror. The individual submits in order not to be killed." [5]

The response is similar to that observed in many animals when in danger of imminent attack from others of their own species. Many times, they will expose their most vulnerable parts to the attacker in a apparent attempt to prevent further violence.[6]

Reasons for Delayed Reports

After the rapist departs, the victim must decide whether to report the incident to the police. If she reports the rape, no matter what her mental status, she'd better hurry, since ". . . evidence showing the presence of 'fresh complaint' has been allowed . . . on the theory that if a woman is actually sexually violated, she will report that violation at the earliest available opportunity, and that undoubtedly she will be a study in hysteria when she does so." [7] In the past, it was a truism among many legal experts that a lack of a fresh complaint was tantamount to a false complaint. However, modern case law considers the rape victim's delay in reporting the crime as simply a factor to be weighed when determining the credibility or consent of the victim. Delays in reporting the commission of a rape may be easily overcome with a credible explanation of the delay.[8]

The principle of "fresh complaint" does not take into account the shock, humiliation, confusion, and fear the victim may be experiencing immediately after the incident. The numbing fear that produces traumatic psychological infantilism is not easily dissipated. As one psychologist who was raped at gunpoint reported, "I felt endangered everywhere. Every noise startled me. Every leaf was camouflage for an assassin. For months a friend of mine described [me] searching the faces on the street as if to ask, 'Are you the one?' " [9]

Another psychological factor which may prevent the victim from promptly reporting the rape is a perverse sense of gratitude. This response is very similar to certain aspects of the "Stockholm Syndrome" observed in hostages. Indeed, the situations are very similar. The rape victim becomes a hostage of the rapist, forced to do his every bidding in order to survive. Although most rape episodes are considerably shorter than the typical hostage incident, time becomes very subjective for the victim. Most rape victims report that the attack seemed interminable.[10] Therefore, depending on the nature of the attack and the victim's psychological makeup, the victim may either identify with the offender or transfer feelings of gratitude, kindness, or understanding. Since the rapist has complied with the victim's ultimate wish—he allowed her to live—she may not report the incident at all or report it only after time has diminished the impact of the incident and her gratitude for being released. Therefore, a delayed report must be viewed in the light of the original Stockholm hostage incident, in which the hostages refused, years later, to testify; a female hostage even married one of the hostage takers.

The stressors involved in a rape situation are clearly equivalent of those experienced by hostages. In fact, the third edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-III) of the American Psychiatric Association associates rape with "a recognizable stressor that would evoke significantly symptoms of distress in almost everyone." [11] Other similar stressors are military combat, floods, earthquakes, car or airplane crashes, bombings, torture, and death camps. Thus, the investigator interviewing a rape victim must understand the victim's point of view of the incident in order to document the reasons behind those otherwise puzzling aspects of her behavior.

Although expert testimony can not explain much of the rape victim's behavior which would otherwise damage her credibility, the jury is still faced with an extremely difficult task in having to arrive at a verdict when the vast majority of evidence presented consists basically of "her word against his."

Fortunately, an entirely new category of psychological evidence is becoming available to make the task of proving force easier in the absence of corroborating physical evidence. Recent studies have identified specific stress reactions in victims which may be linked to the crime of rape and

thus serve as a basis for corroborating their testimony. The police investigator should be familiar with the nature of such stress-related evidence and with ways to develop and document such evidence to serve as a basis for substantiating the victim's allegations when other traditional evidence is not available.

The Rape Trauma Syndrome

The source of most psychological evidence of force lies in the nature of the victim's reactions after the incident. This pattern of reactions is so specific and so universally observed by mental health professionals in dealing with rape victims that it was labeled the "rape trauma syndrome" by the first researchers to extensively study such victims.[12]

The rape trauma syndrome " . . . is the stress response pattern of the victim following forced, non-consenting sexual activity. It consists of somatic, cognitive, psychological, and behavioral symptoms resulting from an active stress reaction to a life threatening situation." [13] It usually has two phases.

The first phase begins about the time the victim is released by, or escapes from, her attacker. It is characterized by disorganization, in which the victim's life is disrupted by the impact reactions of the rape incident. Depending on the severity of the attack, the victim may experience feelings of shock or disbelief, followed by or alternating with fear and anxiety. She will then usually develop one of two styles of coping with her emotions: An expressed style in which she displays her feelings by crying, sobbing, smiling, and becoming restless or tense; or a controlled style in which she masks her feelings behind a calm, composed, or subdued appearance. The number of victims adopting either style is approximately equal.[14] Regardless of the style the victim develops, questions concerning her feelings about the incident will elicit a wide gamut of responses, ranging from fear, humiliation, and embarrassment to anger, revenge, and guilt.

The second phase of the rape trauma syndrome typically begins about 2 to 3 weeks after the attack and is characterized by reorganization. Here, the victim tries to reassemble her lifestyle, integrating the rape experience into it. During this phase, she will attempt to cope with the rape with psychological and behavioral reactions directed toward assuring herself that she will not again be so victimized.

To collect this evidence, the investigator must be cognizant of the specific diagnostic criteria used by psychologists to document this disorder.

The Posttraumatic Stress Disorder

The rape trauma syndrome is now accepted as a subcategory of the specific type of anxiety disorder classified as the "posttraumatic stress disorder" in the DSM-III. Accordingly, the DSM-III diagnostic criteria will be presented, followed by examples often resulting from the rape trauma syndrome, and where appropriate, suggestions for eliciting this type of information during interviews. These examples have been gleaned from the writings of noted mental health professionals, such as those referenced in the footnotes. The major concern in gaining such information is, of course, to avoid "leading" the victim into describing symptoms she hasn't experienced because she believes that the interviewer expects her to undergo such feelings. Therefore, it is essential to use indirect questioning techniques to elicit such information.

The first major criterion noted in the DSM-III is the *existence of a recognizable stressor that would evoke significant symptoms of distress in almost anyone.* Rape is specifically mentioned as such a stressor in the DSM-III. Therefore, the task of the investigator is to inquire about any other traumatic event that might recently have occurred in the victim's life. The absence of such events will help establish that the rape is the sole source of the victim's symptoms.

The DSM-III lists the second major criterion necessary to substantiate this disorder as *reexperiencing of the trauma as evidenced by at least one of the following:*

Recurrent and intrusive recollections of the event—Rape victims are frequently plagued by their inability to keep from thinking about the incident. The victim can be encouraged to report such a phenomenon by a nondirective comment such as, "I don't imagine it's easy to forget something like this."

Recurrent dreams of the event—Nightmares characterized by violence either to the victim or in her presence are commonly reported. At first, the theme of the dream may be similar to the actual event, in which the victim wishes to do something but then wakes up before acting. As the victim adjusts to the trauma, the theme of the dream may change, with the victim gaining mastery of the situation by being able to fight off or even muti-

"Phobic fears of crowds, elevators or stairs, people behind them, or of being alone are typical victim reactions, depending on the circumstances of the rape."

late or kill her assailant. A third type of dream may involve symbolic representations of some theme from the rape, which will require a qualified mental health professional to interpret. The investigator should inquire whether the victim has had any trouble with sleeping or dreaming since the incident and should carefully document the content of any dream the victim is willing to discuss.

Sudden acting or feeling as if the traumatic event were reoccurring because of an association with an environmental or ideational stimulus—Often, victims will complain of momentary panic after seeing something they associate with the incident or something they regard as threatening, such as a strange man "acting suspiciously." They may take action to rid themselves of things which remind them of the incident, such as discarding the purse, shoes, or other items they were wearing during the attack. When informed that it will be necessary for police to temporarily obtain their clothing for evidence, they may express a desire not to have it returned. Victims attacked in their homes may even go so far as to discard furniture present during the attack, which they may associate with the incident.

The third major criterion of the posttraumatic stress disorder is *numbing of responsiveness to or reduced involvement with the external world, beginning some time after the trauma*. Many rape victims directly report that they were in a state of shock, felt numb, or that it didn't feel real. They may typically state that they just can't believe it happened. Other evidence of this criterion can be shown by at least one of the following:

Markedly diminished interest in one or more significant activities—Many victims who once enjoyed sports, walking, and outdoor activities will stop participating in such activities. They may fear that such activities will expose them to danger again. Some victims, especially those attacked outdoors, become phobic of the outdoors and become, in effect, immobilized. They may request friends or relatives to accompany them on routine errands, such as grocery shopping. Conversely, those attacked in their homes or other buildings may feel trapped indoors and seek to be outside or at some other location, such as the workplace.

Feeling of detachment or estrangement from others—Victims frequently describe feeling isolated and estranged from others. One victim described how she ". . . went through the ritual of talking to people. It always seemed as if I were talking through glass or underwater."[15] Another stated that she preferred to ". . . stay in my own little world by myself, now."[16]

Constricted affect—This refers to a withdrawal from life. Rape victims who previously displayed outgoing, "life of the party" personalities may become very defensive and rigid in their behavior. They may refuse to attend social functions, quit work or school, even withdraw from their families. Interviews with friends, coworkers, and family members may be used to document such behavior changes.

The final DSM-III criterion calls for at least two of the following symptoms that were not present before the trauma:

Hyperalertness or exaggerated startle response—Rape victims often develop paranoid feelings. They may believe they are being watched or followed. One victim's mother reported that she wouldn't go to bed until she checked the locks on every door and window in her house at least three times. Another victim reported that she now slept with her clothes on so she could run out of the house if attacked. They may believe others can tell they were raped just by looking at them. They may also run or scream when they feel endangered, such as upon hearing footsteps behind them, being confronted with a "suspicious" man, etc. They frequently will panic and jump or scream upon being startled by an unexpected noise or touch. Also, they will often withdraw convulsively from even a casual touch by a male. The interviewing officer can often observe these reactions directly or might mention that the victim seems "jumpy" and ask if this has been a problem or source of embarrassment for her.

Sleep disturbance—Rape victims often report they are unable to sleep or awaken shortly after falling asleep, then be unable to get back to sleep. Victims who were attacked in their sleep may awaken each night at the time they were attacked.

Guilt about surviving when others have not or about behavior required for survival—Guilt is an especially characteristic feeling among rape victims. Because of society's traditional attitude of blaming rape on the victim, she may accept those standards and impose this judgment on herself. She may also blame herself for her inability to get away from participating in the

crime, even when she clearly had no alternative.

Memory impairment or trouble concentrating—Due to the nature of the rape episode, the victim normally experiences a crisis reaction which results in cognitive, affective, and behavioral disruption. The victim may experience difficulty in remembering details of the incident, especially during the hours immediately following the attack. She may remember being bound, for example, but be unable to remember whether her hands were tied in front of her or behind her back. Her recollection of the details surrounding the attack may prove faulty, and she may be inconsistent in responding to questions about such details. Unfortunately, such inconsistency is often interpreted by the interviewing officer as an indication of deception when it is, in fact, a result of the rape trauma. Details which may have been forgotten or unclear to her at the time of the initial interview will often be recalled in greater detail during the followup interviews after the impact reactions have subsided.

Avoidance of activities that arouse recollection of the traumatic event—Women who were picked up at bars or clubs and later raped may avoid frequenting such establishments. Phobic fears of crowds, elevators or stairs, people behind them, or of being alone are typical victims' reactions, depending on the circumstances of the rape. Descriptions of such phobic reactions can be elicited during later interviews by mentioning what happened to the victim could really change her outlook on whatever her activity or location when the incident took place.

Intensification of symptoms by exposure to events that symbolize or resemble the traumatic event—Victims who were forced to engage in oral sex may gag when eating or have difficulty in swallowing, singing, or speaking. They may also experience "anniversary" reactions on the day or time of the month the incident occurred. Another event symbolizing the rape for some victims is sexual activity. The victim may abstain from sexual relations for an indefinite period or markedly decrease her sexual activity. Slightly over 25 percent of such victims reported such a decrease, however.[17] Conversely, some victims increase their sexual activity, possibly to gain security from the associated cuddling and holding.[18] The interviewing officer should avoid probing the victim for such intimate details, but should be aware that an apparent attitude or promiscuity in the victim after the incident may result from her increased need for security.

Additional Rape Trauma Symptoms

In addition to the criteria which specifically support a DSM-III diagnosis of posttraumatic stress disorder, there are several other symptoms which are associated with the rape trauma syndrome. They include loss of appetite or eating problems, rapid mood changes, depression, excitability, frequent crying, or frequent loss of temper. Many victims also complain of nausea and may state that they become nauseated just thinking about the rape. In the reorganization phase, many victims will change residence, remove their name from mail boxes, and discontinue telephone service or change to unlisted numbers. Usually, such measures are taken due to the haunting fear that the rapist will return or will take revenge because the incident was reported. Many victims also experience a need to "get away" and will take trips or visit relatives they don't usually see often.

Collecting Rape Trauma Evidence

More than one interview with the rape victim will be necessary to observe and document evidence of the rape trauma syndrome. The initial interview will, of course, concentrate on the details of what happened, but its scope should be expanded to encompass the feelings and reactions of the victim.

A second interview should be scheduled with the victim about 2 to 3 weeks after the incident. This interview will be useful in clearing up details that might not have been covered in her initial statement; however, the main emphasis of the interview should be on her reactions and lifestyle since the rape. Observations and information reported by the victim which are consistent with the rape trauma syndrome should be thoroughly documented in the investigator's notes. Finally, a third interview should be held at least 6 to 8 weeks after the incident in order to collect psychological evidence consistent with the reorganization phase of the rape trauma syndrome.

"Accusative interrogation tactics have absolutely no place in the interview, unless it is blatantly obvious that the victim is falsifying the entire report."

Techniques For Interviewing Rape Victims

When interviewing the rape victim, the investigator should try to establish rapport by using knowledge of the psychodynamics of violence to mitigate the tendency (learned from experience in interrogations) to view confused, evasive, or contradictory behavior as evidence of deception. While obtaining the details of the incident, the investigator should ask the victim to relate her feelings during the incident and her reasoning behind actions she took or did not take. The "just the facts, ma'am" attitude that is laudable under other circumstances will be counterproductive in a rape interview, since it tends to limit the flow of information about the psychological impact of the event and may even further traumatize the victim if she interprets this as skepticism or hostility. Remember, at this point in the investigation, a maximum amount of empathy and concern for the victim is required. By expressing interest and sympathy, the investigator not only facilitates the collection of psychological evidence but lessens the impact of the rape aftermath by demonstrating concern for her as a person rather than as a mere source of evidence, or worse, as an additional problem.

If any of the victim's coping strategies even remotely aided the investigation, she should be praised for thinking of them. A question that often haunts the rape victim is, "Did I do the right thing?" If she is aware her strategies were beneficial, the victim may be able to overcome feelings of fear and guilt resulting from perceived ineffectiveness. The interviewing officer must also understand that a victim who is undergoing impact stress reaction may not be able to talk about certain aspects of the incident. She should never be forced into lying about some detail she may not clearly remember or be too traumatized to discuss. She should be informed that if there is something she can't bear to talk about, she should simply say so, and the matter will not be pursued at this time. However, she should also be aware that any false statement about the incident, no matter how insignificant, may cast doubt on her testimony. Of course, it is frustrating not to be able to obtain all of the details immediately, but since two or three additional interviews will be conducted, the investigator will find that the victim will remember and relate willingly more details after the shock of the incident has subsided. Accusative interrogation tactics have absolutely no place in the interview, unless it is blatantly obvious that the victim is falsifying the entire report.

Documenting Psychological Evidence

All observations and information provided by the victim and other witnesses about changes in her lifestyle should be documented in the investigator's notes. Investigators, though, should not attempt to draw conclusions or make diagnoses that they are professionally unqualified to make. Any actual diagnosis must be made by a qualified mental health professional. Ideally, the victim will receive followup counseling from such a professional, but many don't. Even when evidence from psychological counseling sessions is unavailable, the mental health professional can, in many jurisdictions, rely on other evidence (such as the investigator's observations) in arriving at a conclusion.

The Admissibility of Psychological Evidence

Questions remain on the admissibility of psychological evidence in support of the victim's testimony, although the bulk of appellate decisions in this area have been favorable. As a general rule, expert testimony may be admitted to explain psychological aspects of sex crimes that are beyond the experience of the average juror,[19] or for "... explaining superficially bizarre behavior by identifying its emotional antecedents."[20] Such evidence, when corroborating a victim's testimony, was deemed admissible, "... as would be a doctor's testimony in a personal injury case that a party's physical behavior was consistent with a claimed soft tissue injury, although such an injury was not objectively verifiable."[21]

Evidence of the rape trauma syndrome for rebutting defendants claims of consent has been admitted and affirmed on several occasions. One such decision stated, "... the literature clearly demonstrates that the so-called 'rape trauma syndrome' is generally accepted to be a common reaction to sexual assault."[22] However, not all appellate decisions have upheld the admissibility of rape trauma evidence, especially when offered along with an expert opinion that the victim was, in fact, forcibly raped. Such testimony was held to be "... a legal conclusion which was of no use to the jury" because it "gave a stamp of scientific legitimacy to the truth of the complaining witness's fac-

tual testimony."[23] Nor have all courts agreed that the rape trauma syndrome is generally accepted in the scientific community. One court held that "the scientific evaluation of rape trauma syndrome has not reached a level of reliability that surpasses the quality of common sense evaluation present in jury deliberations."[24] The same court was split in a later case, however, with dissenting justices stating that "such evidence is probative on the issue of consent and thus helpful to the jury in resolving the conflicting facts of this case concerning that issue."[25] One court upheld the admissibility of a rape crisis counselor's testimony, even though she had not personally counseled the victim, but had merely read documents pertaining to the case and observed the victim testifying in court.[26]

Conclusion

Forcible rape produces psychological stressors which are among the strongest possible in human experience. To cope with these stresses, victims are reduced to a primitive, childlike state of mental functioning in which the logical faculties of the adult conscious mind are suspended and all behavior is purely survival oriented. Their behavior is therefore often difficult to understand without expert interpretation. Moreover, these stressors damage the psyche and lead to quantifiable ideational and behavioral changes specifically characteristic of rape victims. Police investigators who are cognizant of the coping behavior and posttraumatic stress reactions of rape victims will be more effective in conducting followup investigations as they will collect additional evidence which may be used to substantiate the element of force. Also, by being concerned with the victim's feelings and reactions, they will reduce some of the trauma associated with the investigation and will encourage victims to cooperate more fully in subsequent prosecutions. Thus, by becoming familiar with a few psychological principles, the police investigator can, in some instances, become the eyes and ears of the expert whose testimony may easily mean the difference between seeing justice done and allowing a dangerous criminal return to society to prey on additional innocent victims. **FBI**

Footnotes

[1] D L Smith, "The Aftermath of Victimization: Fear and Suspicion," in *Victims and Society*, ed E C Viano (Washington: Visage Press, 1976), p 211.

[2] M Symonds, "The Rape Victim: Psychological Patterns of Response," *American Journal of Psychoanalysis*, vol 36, No 1, 1976, p 29.

[3] A W Burgess and L L Holstrom, "Coping Behavior of the Rape Victim," *American Journal of Psychiatry*, vol 133, No 4, 1976, pp 414-415.

[4] Ibid, p 416.

[5] Supra note 2, p 30.

[6] Ibid, p 31.

[7] J L Ross, "The Overlooked Expert in Rape Prosecutions," *University of Toledo Law Review*, vol 14, No 3, 1983, p 708.

[8] *State* v *Van Doren*, Mo App, 657 S W 2d 709 (1983); *State* v *Baker*, Or App, 610 P 2d 840 (1980); *State* v *Berry*, N H, 373 A 2d 355 (1977).

[9] D Metzger, "It Is Always the Woman Who Is Raped," *American Journal of Psychiatry*, vol 133, No 4, 1976, p 405.

[10] Supra note 3, p 416.

[11] *Diagnostic and Statistical Manual of Mental Disorders*, American Psychiatric Association, 3d ed, p 238.

[12] A W Burgess and L L Holstrom, "Rape Trauma Syndrome," *American Journal of Psychiatry*, vol 131, No 9, 1974, p 981.

[13] A W Burgess, "Rape Trauma Syndrome," *Behavioral Sciences & The Law*, vol 1, No 3, 1983, p 97.

[14] A W Burgess and A Lazare, *Community Mental Health: Target Populations* (Englewood Cliffs, NJ: Prentice-Hall, 1976), pp 240-241.

[15] Supra note 9.

[16] Supra note 12, p 103.

[17] J Norris and S Feldman-Summers, "Factors Related to the Psychological Impacts of Rape on the Victim," *Journal of Abnormal Psychology*, vol 90, No 6, 1981, p 565.

[18] Supra note 13, p 105.

[19] *State* v *Harwood*, Or App, 609 P 2d 1312 (1980).

[20] *State* v *Markillion*, Or App, 648 P 2d 1296, 1300 (1982).

[21] Ibid.

[22] *State* v *Marks*, Kan, 647 P 2d 1292, 1299 (1982).

[23] *State* v *Saldana*, Minn, 324 N W 2d 227, 231 (1982).

[24] Ibid, p 230.

[25] *State* v *McGee*, Minn, 324 N W 2d 232, 234 (1982).

[26] *United States* v *Hammond*, 17 M J 218 (C M A 1984).

RESEARCH NOTE

Violence Against Women: The Increase of Rape in America 1990

U. S. SENATE COMMITTEE ON THE JUDICIARY

The following excerpts from the majority staff report of the U. S. Senate Committee on the Judiciary consist of sections dealing with estimates of the extent of the problem. Using methods that augment FBI reports, the researchers were able to estimate the hidden extent of the problem that results from unreported incidents. The full report and legislation proposed by the Committee is available from the Committee on the Judiciary, United States Senate, Washington DC.—Ed

More American women were raped in 1990 than in any year in our nation's history. After contacting hundreds of state and local officials, the majority staff of the Senate Judiciary Committee has compiled the first comprehensive count of rape in 1990. And the picture is bleak: there is an epidemic of rape spreading across the country. There were over 100,000 rapes identified by authorities last year. The majority of states set all-time rape records—and more than 4 out of every 5 states reported increases in the number of rapes they recorded.

It is easy to understand why women in this country do not feel safe. At one point, their fears were confined to dark, secluded alleys. Now women must worry about crowded offices, local restaurants, and comfortable homes. For women, there is no longer any place that they can call "secure." The findings of this report confirm that the number and rate of rapes have increased at a truly devastating rate. In 1989, there were 94,504 rapes known to police—at the time, a record number. In 1990, however, police identified over 100,000 rapes shattering the previous record.

In 1989, according to the FBI, there were 10 rapes every hour. In 1990, the "crime clock" ticked faster—up to 12 rapes every hour, close to 300 every day. Further, the rape rate—the percentage of women who were raped—rose to record level last year. This means that in 1990, American women were more likely to be raped than ever before.

The number of rapes known to authorities rose over 6 percent in 1990 over 1989. The increase—5,929 attacks—was the largest in more than a decade [according to FBI data]. Looking more closely at the current trend, the number of rapes known to authorities has increased every year since 1987. But the 1990 increase was nearly 3 times greater than 1989 over 1988.

Although violence against women has recently increased at shocking and historic levels, the problem of rape is not a new one. The number of rapes has been rising as long as America has been collecting data on the subject. Compared with 1970, women were over 2 times more likely to be raped in 1990. Compared with 1960, women were nearly 4 times more likely to be raped last year. Not only is the threat of rape increasing with each passing year, but it is increasing faster than the threat of other crimes. In fact, the rape rate has increased much faster than the overall crime rate—4 times faster over the last 10 years.

The report reveals that 1990 was the worst year ever for the personal safety of American women. A detailed analysis of the data collected by the committee shows that this held true for every region of the country. No state or locality was immune. Of all of the Committee findings, none is more illustrative of the national rape crisis than this fact: In 1990, 29 states set records for the number of reported rapes while 27 set records for the rate of reported rapes (Table 1). In other words, more than half of the states in the country set rape-related records in 1990.

These first findings from 1990, just as the FBI's annual results that will be released in August, count only those rapes known to police. Thus, the trend here is evident simply from the number of reported rapes. What about all the rapes that police never hear about? The report provides evidence that even these are on the rise, and that they are increasing faster than the number of reported rapes.

The FBI provides the only objective, national counting of the number of women raped every year. The fact that the totals are objectively reached and uniformly gathered year-in and year-out helps policy-makers define the presence—if not always the magnitude—of trends in criminality. Even so, we must keep in mind that rape is the crime least often reported to authorities. Women report being raped only 7 percent of the time. By comparison, the reporting rate for robbery is 53 percent; assault, 46 percent; and burglary, 53 percent. Researchers have also discovered that young women are the least likely of all to report their rape. The most comprehensive study ever of college rape victims found that less than 5 percent inform police that they have been so victimized. And further, more than half of college rape victims tell no one of their plight (Koss, 1990).

To complement the rape data obtained from law enforcement authorities, the Senate Judiciary Committee contacted rape crisis centers in over half of the states in

Table 1
Number of Reported Rapes in 1990 By Increase, 1989-1990

State	Number	
District of Columbia	303	
Alaska	367	
Utah	636	
Colorado	1518	
Maryland	2184	
West Virginia	420	
Virginia	1915	
Nevada	771	
Idaho	272	
Arizona	1480	
Missouri	1822	
Georgia	3610	
Minnesota	1553	
South Carolina	1840	
Nebraska	426	
Vermont	145	
New Mexico	772	
Oklahoma	1328	
Kansas	1004	
Florida	6874	
Alabama	1369	
Hawaii	530	
Indiana	1931	
Tennessee	2424	
North Carolina	2093	
New Hampshire	348	6
Texas	8427	
Kentucky	968	
Massachusetts	1983	
Iowa	483	
Arkansas	969	
Michigan	6938	
Montana	150	
North Dakota	81	
California	12413	
Ohio	5038	
Mississippi	1044	
Pennsylvania	3044	
Wisconsin	1019	
New York	5315	
Oregon	1330	
Connecticut	897	
Louisiana	1680	
Washington	2948	
Illinois	4128	
Wyoming	132	
South Dakota	225	
New Jersey	2358	
Rhode Island	245	
Delaware	520	
Maine	163	-29
TOTAL	100433	

the country. The information supplied by these centers suggest an even more severe problem of sexual assault.

- Every crisis center that provided state-wide totals reported increases in the number of rapes.
- In 2 out of every 3 cases, the state-wide rape crisis center totals showed higher—often dramatically higher—increases than the data provided by police.
- For example, Louisiana authorities reported a 0.3 percent increase in the number of rapes, but that state's central rape crisis center reported a 39 percent increase. Similarly, Michigan authorities reported a 4.7 percent increase while its central crisis center claimed a 36 percent increase.

The Report's Methodology

It should be noted straight away that, in essence, we have merely replicated the methodology used by the FBI's Uniform Crime Reports (UCR) program. The data presented in this report, just as those the FBI releases annually, are not the result of some tangled, complicated methodology. Rather, the final count is simply that—a count of the number of rapes reported to police departments around the country. Thus, the strength of this report's findings lies in the fact they are based on a census, not a survey.

It is worth noting at the outset that it would be impossible at this point to know the *exact* number of rapes that police reported last year. In fact, the tabulations continue to change even after the FBI publishes its findings in August. Still, although the exact number of reported rapes is elusive, we believe that our extensive information-gathering and analysis has yielded a very close estimate. The findings of this report—by replicating the FBI's methodology—represent the closest and, yet, most conservative estimate of the number of rapes known to police in 1990.

The data presented in the report comes from two sources. The first source—and by far the largest one employed here—is state and local law enforcement agencies. In the majority of states, local law enforcement agencies pass on their annual crime counts to a centralized crime data collection center which, in turn, pass their information on to the FBI (eight states do not have centralized crime data collection centers). The 1990 rape data had been collected and tabulated and was available at the state level in over one half (27) of the states we contacted.

When state-level data was not available, the Committee relied on over 200 city-level law enforcement agencies.

The second source of data is rape crisis centers. The Committee contacted numerous of these centers around the country to find out how many more (or less) women reported to them of being raped. Because the data collection techniques varied between the centers—with some counting the number of hotline calls, others counting the number of women who receive rape crisis counseling—the information obtained was used to verify the trends described by state and local law enforcement data rather than as a wholly independent basis for estimating the number of women raped in a given state.

This report, like the FBI's, counts the number of rapes known to police. The information comes from state and local law enforcement agencies and, so, by definition, the police must be informed of a rape for it to be tabulated in our final count. Also, like the FBI, we include reports of attempted rapes in our count of total "rapes." The Department of Justice's Bureau of Justice Statistics (BJS) publishes annually its *National Crime Survey*. In it, the BJS makes a distinction between rapes and attempted rapes and calculates them separately before adding them together for a final "rape total." As noted here, however the UCR makes no such distinction and, therefore, neither do we for the purposes of this report.

Further, this report's definition of rape is the same as the one relied on by the FBI—"carnal knowledge of a female forcibly and against her will." The point of this report is to show the rate of change in the number of rapes reported between 1989 and 1990. To do this, we need to use the same standard UCR definition or else our findings would not be directly comparable to the UCR data.

As with any census, there are a few gaps in the data collection process. Basically, our report misses the data from three areas: (1) Police who do not report their rape data to state collection centers, (2) Police who do report their rape data to the state centers, but belatedly, and (3) Localities missed in our polling of states whose collection centers either were not prepared to release data or were non-existent, as is the case in eight states.

The first area of missed data concerns the local law enforcement agencies that do not report their data to state crime information centers. The crux of the problem is this—even in the states with operational UCR reporting systems, often localities provide their data on a volunteer basis. So, while most localities report, there are also some that do not. This results in a number of missed rapes, even though they were reported to police at the local level.

To generate its final national tally of rapes (and all other crimes), the FBI estimates the rape totals of the localities that did not pass along their data to the state level and adds these estimates to the number received from the states to determine a "grand total."

Because the FBI adds these estimates to the state data, its "grand total" is usually larger than the figure initially given to them by the states. Of course, this would not be true when fully 100 percent of a state's metropolitan, suburban, and rural agencies report their data to the FBI.

In 1989, there were 10 states, including the District of

Columbia, that provided the FBI with 100 percent of their agencies' data. Basically, if any agency or part of an agency in a state does not report its data, assuming that there is some measure of crime in that agency, the FBI's "grand total"—which adds the crimes estimated for non-reporting jurisdictions—will be higher than the state's original, incomplete reported number of crimes.

To ensure that our estimate would be conservative, we considered the statewide data we gathered to be the total for each state. In other words, the rapes that went unreported to the states were also not counted in this report (for those states that provided state-level data). The second area of missed data concerns late reporting. Some localities volunteer their data to the state data collection centers but do not deliver their results until after the FBI's state reporting deadline. The FBI publishes its *Crime in the United States* in August and even then there are still reports trickling in.

This problem was particularly evident when we contacted states to find their 1989 and 1990 rape totals. Some states provided 1989 figures that differed from those appearing in the 1989 UCR report. The reason: The states had recalculated their rape totals to account for late-arriving information.

There are two points to be made about this problem: (1) to ensure a uniform statistical foundation for all states when figuring rape increases or decreases, we used the 1989 rape totals listed in the UCR; (2) in the interest of generating a conservative estimate, we did not add to the 1990 state-wide data to compensate for late-arriving crime reports.

The third area of missed data are those suburban and rural areas of the country in states that did not report data to us. The majority of state (26) reported state-level data. For the remaining states, we contacted over 200 cities. The cities we contacted represent all of the 24 states' major metropolitan areas and, thus, we accounted for a high percentage of each state's crime totals.

Using this method, we were able to contact enough cities so that we received actual counts for the areas that account for an average of 60 percent of each state's reported rape totals from 1989. The percentages are based on comparing the number of 1989 reported rapes in the contracted cities with the 1989 UCR reported rape total for the state. The fewer the number of large metropolitan areas in a state, the more cities we had to contact to reach a strong percentage of the previous year's reported rapes. The lowest percentage contacted was 29 percent (Mississippi) and the highest was 87 percent (Hawaii).

An issue arose over how to measure the number of rapes that were reported to police yet not known to us—meaning the rapes reported to police in localities we could not contact. As mentioned above, the FBI faces this challenge every year. And they answer the challenge by extrapolating a "grand total" for each state based on a very complicated set of statistical assumptions.

Ultimately—again in the spirit of producing a conservative estimate—we decided to apply no increase to these remaining agencies, despite every indication that these areas experienced increases in the numbers of reported rapes. According to the 1990 6-month figures released by the FBI in October, reported rapes in suburban areas increased by 7 percent on average while they increased by 5 percent in rural areas. Also, the FBI category of "other cities"—those with fewer than 50,000 population—reported increases of 15 percent on average.

When counting the number of women raped last year, the one set of data that was necessarily missing was the massive number of rapes undiscovered by the authorities. This set of "silent data" by far accounts for the vast majority of rapes that occur each year in this country.

Experts provide numerous reasons why women do not report their rapes. Dr. Mary Koss, who testified before the Senate Judiciary Committee in August 1989 has shown that 1 in 5 women will be raped at some point in their lives. This is the "lifetime statistic." But what about the chance of being raped in any given year? This is how the government measures the problem. For instance, the FBI's *Crime in the United States* measures the annual incidence, not the lifetime incidence, of rape. And another Department of Justice unit, the Bureau of Justice Statistics (BJS), also publishes its findings (the *National Crime Survey*) according to annual incidence rates.

It is important to note that even the Administration believes that the FBI and BJS undercount the number of rapes. The BJS's latest *National Crime Survey* finds that the rape total is 127,000—and that was back in 1988 (Bureau of Justice Statistics, 1989). The Survey has extensive methodological flaws that all, including BJS, agree result in a severe undercounting of victims.

In fact, Koss (1990) estimates that the BJS incidence figure is low by a factor of 15. In other words, as many as 2 million women are raped each year when non-reporting is taken into account. Because there is such an enormous discrepancy between the number of rapes reported to police and the number that researchers claim actually occur, we emphasize that our findings represent no more than the number of "offenses known to authorities."

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Procedural curb on rape data upheld

By Ethan Bronner
GLOBE STAFF

WASHINGTON – The Supreme Court ruled yesterday that states may bar evidence of a sexual relationship between an accused rapist and the alleged victim on procedural grounds without violating the constitutional rights of the accused.

By a 7-to-2 vote, the justices upheld part of Michigan's rape shield law that is similar to a federal law and laws in all states except Utah and Arizona.

Writing for the majority, Justice Sandra Day O'Connor also offered the high court's strong endorsement of rape shield laws, calling them "a valid legislative determination that rape victims deserve heightened protection against surprise, harassment and unnecessary invasions of privacy."

Rape shield laws, under which an alleged rape victim's sexual history may not be entered into evidence, have caused controversy among defense lawyers, but they have been upheld by every court that has examined them.

In Michigan's statute, as in all others, an exception allows the defendant to introduce evidence of his sexual relationship with the victim. But in Michigan, intention to introduce such evidence must be made in writing within 10 days of arraignment. In most states, such as Massachusetts, there is no such time limit.

In yesterday's decision, the justices said states may exclude testimony regarding the defendant's sexual relations with the victim if the defendant fails to follow the state's procedural guidelines and time limit. The court left open whether 10 days was sufficient time.

Thus the high court overturned a ruling of the Michigan Court of Appeals that held that such exclusion violated the Sixth Amendment's guarantee to a fair trial.

O'Connor said yesterday that the Michigan court had taken an overly rigid view of the Sixth Amendment and that fair notice of an intent to introduce certain evidence is necessary for a fair adversarial system.

She was joined in her decision in Michigan v. Lucas (90-149) by Chief Justice William H. Rehnquist and Justices Byron R. White, Antonin Scalia, Anthony M. Kennedy and David H. Souter.

Justice John Paul Stevens, joined by Justice Thurgood Marshall, dissented, saying preclusion of such vital evidence is an unnecessarily harsh remedy.

In another case, the court overruled a judge who ordered the execution of a convicted killer even though the prosecution had asked only for imprisonment.

Stevens, writing for a 5-4 majority, said the Idaho killer's due process rights had been violated because his lawyer had insufficient warning that the sentencing judge was considering capital punishment.

Citing an opinion by the late Justice Felix Frankfurter, Stevens called fair notice "the bedrock of any constitutionally fair procedure." He also referred to "the special importance of fair procedure in the capital sentencing context."

Stevens was joined by Marshall, Blackmun, O'Connor and Kennedy.

The four dissenters, led by Scalia, said the law in Idaho made clear that the sentence, including the possibility of a death sentence, was the sole responsibility of the judge and to allow ignorance of that law to excuse the defendant "creates a vast uncertainty in the law." Scalia was joined by Rehnquist, White and Souter.

It was Souter's first recorded dissent and the first time he has voted differently from O'Connor since he joined the court last October.

The case, Lankford v. Idaho (88-7247), concerns the 1983 murder of Marine Capt. Robert Bravence and his wife, Cheryl, at an Idaho campsite. According to police, Bryan Lankford and his brother Mark beat the couple to death.

At Bryan Lankford's 1984 sentencing trial, the prosecution did not discuss the possibility of the death sentence. The prosecutors also offered no so-called aggravating evidence required to suggest that death was the appropriate punishment.

In response, Lankford's lawyer felt no need to reply with so-called mitigating evidence to block the imposition of a death sentence. Nonetheless, when the sentencing occurred, the judge ordered Lankford executed. Yesterday, the high court said Lankford is entitled to a new sentencing trial.

In other action, the court:

- Ruled 8-0 that Louisiana courts must be allowed to decide whether to save the lives of two monkeys used for medical research.
- Unanimously upheld the power of the attorney general to classify so-called designer drugs as illegal substances.

D-31

Rise in rapes, assaults boosts crime figures

Boston Globe 4-20-

By James Rowley
ASSOCIATED PRESS

WASHINGTON – An estimated 59 percent surge in rapes and attempted rapes and a substantial increase in assaults spurred a dramatic rise in violent crime last year, according to a Justice Department survey of crime victims released yesterday.

Preliminary figures showed there were 2.6 million completed violent crimes last year, up 7.9 percent from an estimated 2.4 million the previous year. Including attempted violent crimes, the total was 6.4 million last year, up 7 percent from 6 million in 1990.

But department officials cautioned that the percentage increases could be misleading because they translate into only marginal rises in overall crime rates since last year.

'We don't know if it's a trend. If we are to continue to get these numbers over the years, it would be of concern.'

PATSY KLAUS
Justice Department statistician

The Justice Department said that its estimate of the total number of crimes and attempted crimes last year – 35 million – was well below the 41.4 million of 1981. The estimates by the Bureau of Justice Statistics have shown a gradual decline in crime since its annual National Crime Survey was begun in 1973.

Still, the 6.4 million total completed and attempted violent crimes was the third-highest since 1973.

The bureau's annual National Crime Survey estimated there were 31.3 attempted or completed violent crimes per 1,000 people last year. That is up from 29.6 per 1,000 in 1990, but well below the record rate of 35.3 per 1,000 in 1981. These offenses include rape, robbery and assault, but not murder.

The estimates are based on a survey of 95,000 people ages 12 and older in 48,000 representative households. They were asked if they were victims of crimes in the six months before being contacted.

Criminologists consider the vey a more reliable barome crime than the FBI's Unifo Crime Report because it inc episodes not reported to police.

As for rapes and attem rapes, the survey estimated there were 207,610 in 1991, u percent from 130,260 the pre year. The rate of such assaults per 1,000, compared with 0.6 1,000 the previous year. Rape attempted rapes had occurred near the rate of 1 per 1,000 p during 12 of the last 18 years.

The 59 percent increase in crimes "looks dramatic" bec "you are dealing with a small ber to start with," said Justic partment statistician Patsy Kla

"We don't know if it's a tr she said. "If we are to contin get these numbers over the ye would be of concern."

Section E

Violence Prevention

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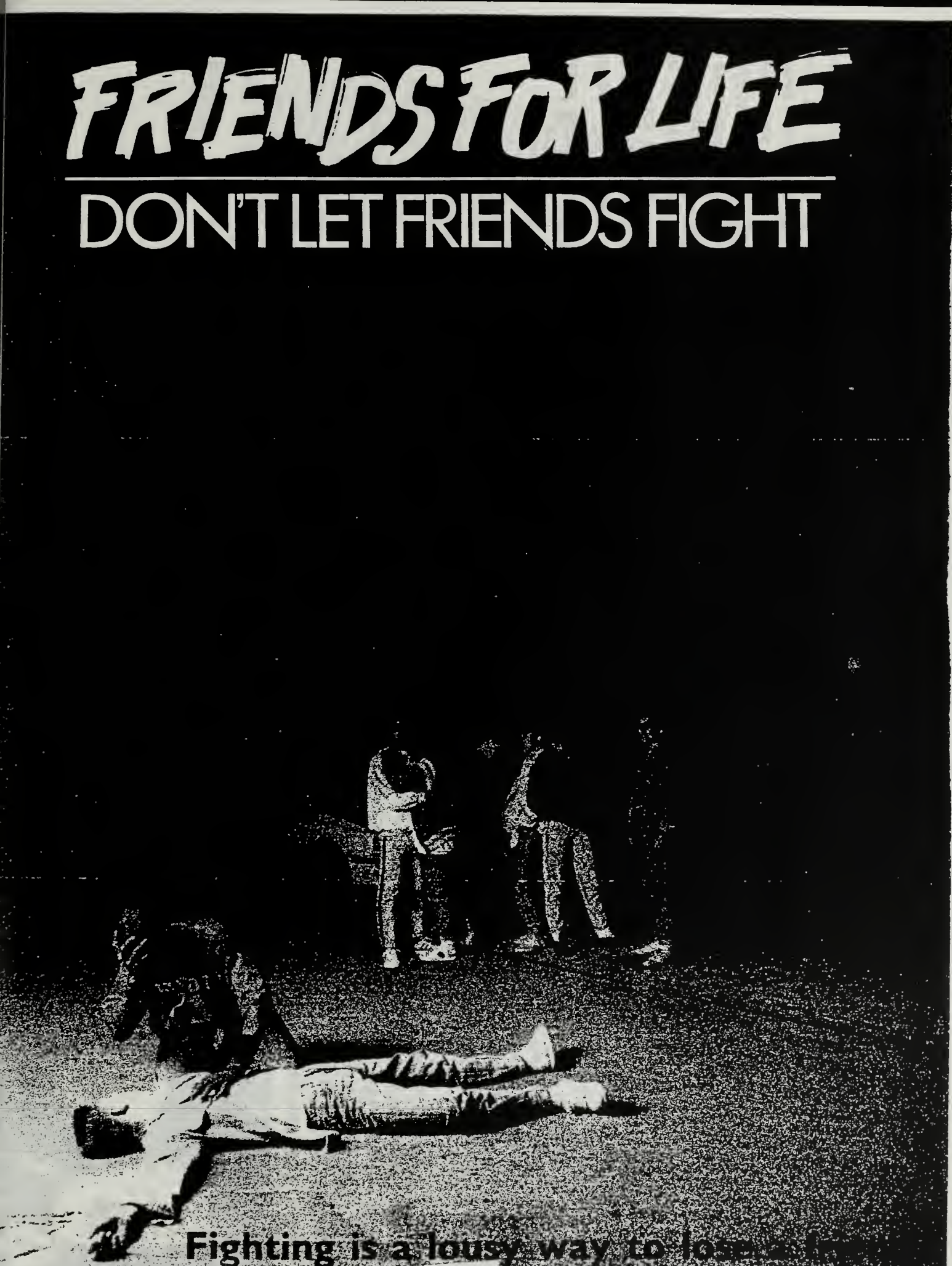
FRIENDS FOR LIFE

DON'T LET FRIENDS FIGHT



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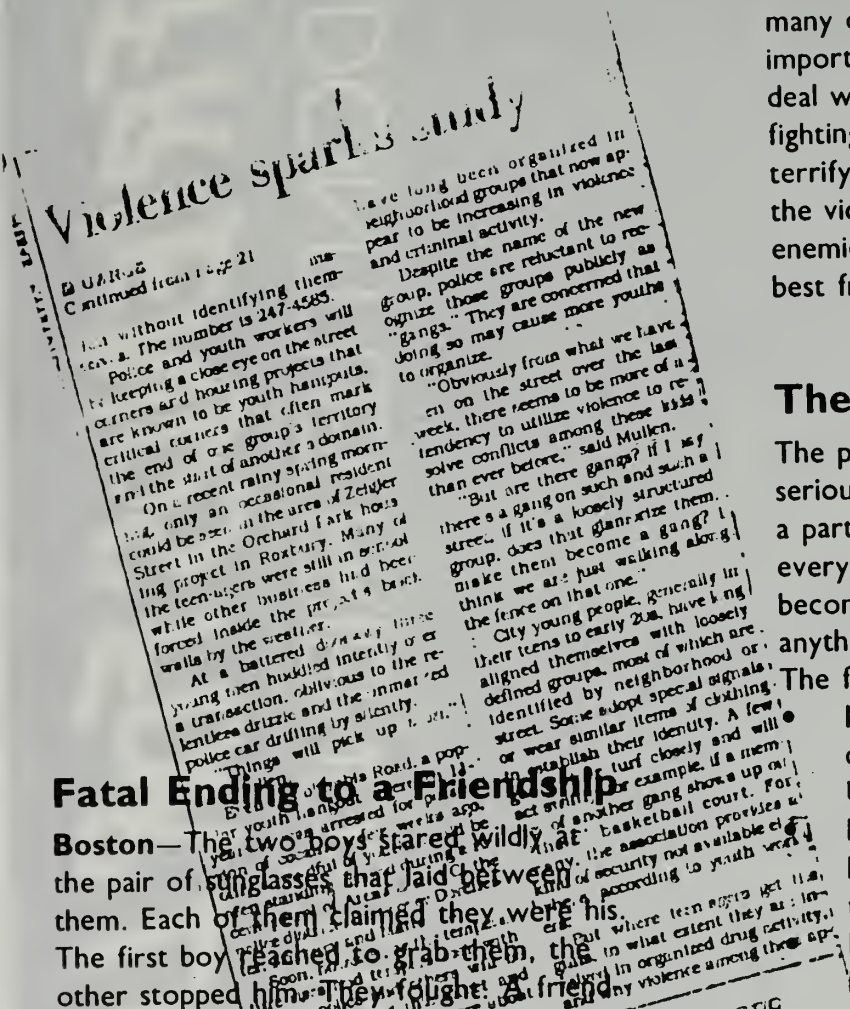
Violence spurs study

Continued from page 21

... without identifying themselves. The number is 247-4585.

Police and youth workers will be keeping a close eye on the street corners and housing projects that are known to be youth hangouts, critical corners where the end of one group's territory and the start of another's domain.

On a recent rainy spring morning, only an occasional resident could be seen on the area of Zeigler Street in the Orchard Park housing project in Roxbury. Many of the teen-agers were still in school, while other business had been forced inside the projects' brick walls by the weather.

At a battered dining table, young men huddled intently over a transaction, oblivious to the relentless drizzle and the unmarked police car drifting by silently.

"Things will pick up t..."

...have long been organized in neighborhood groups that now appear to be increasing in violence and criminal activity.

Despite the name of the new group, police are reluctant to recognize those groups publicly as "gangs." They are concerned that doing so may cause more youths to organize.

"Obviously from what we have seen on the street over the last week, there seems to be more of a tendency to utilize violence to resolve conflicts among these kids than ever before," said Mullen.

"But are there gangs? If I say there's a gang on such and such a street, if it's a loosely structured group, does that glamorize them, make them become a gang? I think we are just walking along the fence on that one."

City young people, generally in their teens to early 20s, have long aligned themselves with loosely defined groups, most of which are identified by neighborhood or street. Some adopt special signals or wear similar items of clothing to establish their identity. A few ... turf closely and will ... of another gang shows up on ... For example, if a mem... basketball court. ... the association provides a ... kind of security not available ... According to youth workers, ... But where teen gangs get ... to what extent they are ... in organized drug activity, ... any violence among these ap...

...ALL IN THE GLOBE
The Boston Globe
...DELIVERY CALL ...

Fatal Ending to a Friendship

Boston—The two boys stared wildly at the pair of sunglasses that laid between them. Each of them claimed they were his. The first boy reached to grab them, the other stopped him. They fought. A friendly game turned into an all-out war. They punched, grabbed, cursed. All of sudden one reached into his pocket. A hand gun flashed in the street light. A shot was fired. The first boy fell dead on the sidewalk. The other stood in front of him, stunned. He had just killed his best friend. Witnesses say both boys had been drinking.

Unfortunately, this is a story that happens all too often. Young people are hurting and killing one another daily over things most of us would consider unimportant—an insult, a rumor, a pair of sunglasses. For many of these teenagers, saving face is all-important. They know of only one way to deal with their anger, and that is by fighting, hurting and killing. What is most terrifying about adolescent violence is that the victims are not strangers or even enemies. They are classmates, buddies, and best friends.

The grim reality

The problem of teenage violence is serious. A scuffle in the hallway, a fight at a party, a war in the streets. It happens every day. But each fight eventually becomes a statistic. And the numbers are anything but "cool."

The facts speak for themselves:

- Murder is the second leading cause of death among adolescents in the United States.
- Fighting injuries among teenagers in Massachusetts is more than ten times the murder rate.
- Many of Boston high school students have been victimized by another teenager.
- Over half of all murder victims knew their attackers.
- Most murders are the result of "friendly arguments."
- The Violence Prevention Project was founded to change these facts. It is confronting teen violence head-on, and at all levels—whether it's in the school, on the streets, or in the home.

Peaceful alternatives

The two boys stared wildly at the pair of sunglasses that laid between them. You know the story. Was it worth a life? Too often feelings get in the way of clear thinking. The results are bad. But there are other ways.

Check them out:

- Talk to each other. More times than not, talking helps you figure it out without throwing a punch.
- Share—50/50. It's tough to do, but in the end you're both winners.
- Chill out—lighten up and laugh. Look at it another way and take it easy. It's probably not as serious as you think.
- Play ball. Sports are a good way to let off steam. Work out your problems on the courts, not on your friends.
- Know the dangers of carrying weapons. When you carry a knife or a gun, you're asking for trouble. And you're more likely to get hurt.

There are a lot of ways to deal with your anger. Fighting isn't the only way out. Friends for life, don't friends fight.

CITIZENS FOR SAFETY

MISSION

Citizens For Safety (CFS) is a citywide multicultural coalition working to reduce violence and improve the quality of life in Boston's neighborhoods. In collaboration with residents, youth, educators, the media, clergy, private corporations, and activists, we work to combat the root causes of violence through advocacy and direct programming. We aim to reverse the trend of deterioration currently sweeping through our city by addressing four critical areas: Police and Criminal Justice Issues, Media Awareness Issues, Youth Resources, and Neighborhood Empowerment.

The proliferation of violence, guns, and drugs in our city has created an environment of isolation, fear, and desperation. In the wake of this crisis, many have called for increased law enforcement to reduce violence. Although the police department and criminal justice system are vital to the struggle to reduce violence in our city, they are only one component of a multifaceted solution to this current epidemic. If we are to emerge victorious from our struggle to reclaim our neighborhoods we must call upon all sectors to work to together to develop and implement comprehensive solutions. This is the mission of Citizens For Safety.

WHAT HAVE WE DONE?

o Successfully advocated for **Community Policing** in Boston and continue to participate in implementation and evaluation efforts.

o Produced **"The Citizens' Rights Handbook: A Community Guide to the Criminal Justice System"** in adults and youth editions.

o Published the annual **"Call To Action"** report, an assessment of the nature and scope of services available to Boston youth and recommendations to fill the gaps.

o Co-organized the **Annual 24 Hour Soccer Marathon For Peace** to raise money for local youth programs.

o Co-organized a **Youth Hearing At City Hall** which featured over 100 teenagers advocating for youth programs and services.

o Worked with the city to develop innovative residential safey programs such as **Project Pride and Neighborhood Nitelite**

o Co organized second **State of the Neighborhoods Convention** a gathering of over 300 community activists and residents strategizing to improve Boston.

JOIN US TODAY!

If you are:

- Concerned about Crime and Violence Rate
- Tired of negative media coverage
- Worried about the future of young people
- Ready to get involved

CFS WANTS YOU!!

You can join our efforts to reclaim our neighborhoods. As a CFS member you can join a Task Force and work with other residents to STOP THE VIOLENCE BEFORE IT STARTS! You will also receive copies of our newsletter, you canvote at our annual meeting, and request workshops on a variety of issues.

MEMBERSHIP FORM

Name: _____

Address: _____

_____

Phone: _____

YES! I want to join CFS' efforts to reduce violence in Boston. My membership fee of $____ is enclosed.

Individual	$4.00	____
Organization	$25.00	____
Benefactor†	$50.00	____
CFS Friend	$	____

I am interested in the following areas:

Police Issues	____
Youth Issues	____
Media Issues	____
Neighborhood Organizing	____

Other (Please specify) _____

CITIZENS FOR SAFETY

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E-6

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Michael McDonald

Victor Morales
La Alianza Hispana

Lem Roberson
Jusge Baker's Children Center

Charlie Roase
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Vaughn Simkins
Violence Prevention Project

Rita Spinola

Dr. Jeanne Taylor

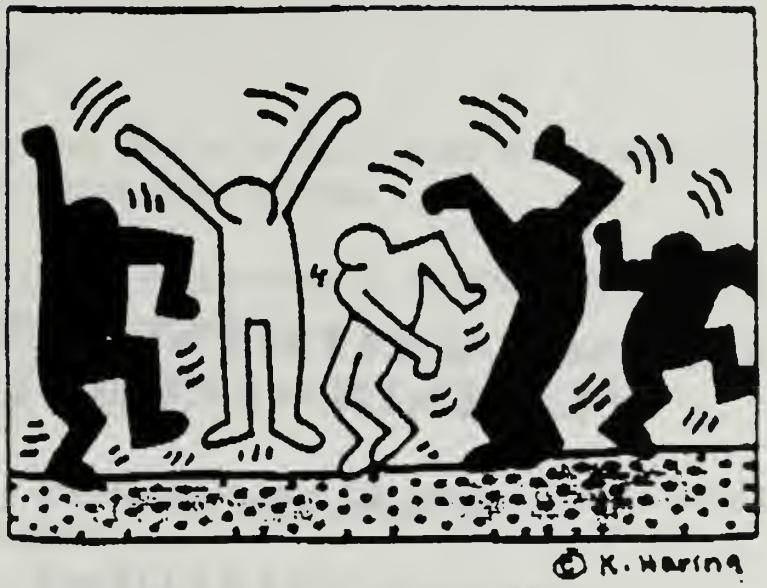
Luis A. Velez
Roxbury Youthworks, Inc.

Ken Wade

Clara Wainwright

Bill Walczak
Codman Square Health Center

MASSACHUSETTS STUDENT ALLIANCE



AGAINST RACISM & VIOLENCE

ABOUT THE MASSACHUSETTS STUDENT ALLIANCE AGAINST RACISM AND VIOLENCE

Established in 1988, the Massachusetts Student Alliance Against Racism and Violence (the "Alliance") remains the only program of its kind within the state of Massachusetts which is exclusively devoted to the prevention of hate and bias motivated violence among young people. Initiated through the Civil Rights Unit of the Norfolk County District Attorney William D. Delahunt, the "Alliance" has become a statewide network of young people committed to the achievement of racial harmony. The "Alliance" achieves its objectives through the following program areas:

- Youth Empowerment and Leadership Training
- Community Legal Education
- Student Legislative Action Project
- Student Advisory Board/Board Development
- Children of War/Boston
- Organizational Consultation, Diagnosis & Intervention
- Training for Faculty, Administrators, and Parents

To request further information regarding the "Alliance" and to obtain a copy of the project manual, please write to the following address:

Pam Ellis
Project Director
MA Student Alliance Against Racism
& Violence
Office of the Norfolk County D.A.
P.O. Box 263
Quincy, MA 02269 (617) 472-0613

LAWRENCE ADOLESCENT VIOLENCE PREVENTION PROJECT

The Psychological Center

MISSION STATEMENT

Violence in any form is unacceptable. We the members of the Lawrence Adolescent Violence Prevention Project are committed to the elimination of violence by engaging our entire community in activities and programs which help us choose productive options when facing life's day-to-day challenges.

Violencia en cualquier forma es inaceptable. Nosotros, los miembros del Proyecto de Jovenes de Prevencion de Violencia de Lawrence estamos comprometidos a eliminar la violencia a traves de la participacion de toda la comunidad en actividades y progrmas que nos ayuden a escoger opciones productivas cuando enfrentamos los desafios diarios de la vida.

Approved version by the Violence Prevention Task Force, March 18, 1992.

YOUTH VIOLENCE IN LAWRENCE

DEATHS 1985-1989:

- One in every five deaths of 10-19 year old children was due to violence (homicide and suicide).
- One quarter of the injury-related deaths in this age group were due to violent injuries.

HOSPITALIZATIONS 1990:

- One in every three 10-19 year old injury victims was the victim of violence.

EMERGENCY DEPARTMENT VISITS July 1991--December 1991:

- One quarter of all victims of assault were 10-19 year old children.
- One in every seven 10-19 year old assault victims was sexually assaulted.
- Every two days, a 10-19 year old child was seen at a hospital Emergency Department for injuries resulting from violence.

NEWSPAPER REPORTS August 1991--February 1992:

- There were 39 reports of violent incidents where the perpetrator and/or the victim was under 20 years old--more than one report per week.
- Almost one half were rapes and other sexual assaults.
- One third were other violent assaults (assault and battery, assault with a weapon).
- One fifth were other violence (armed robbery, vandalism, arson).

Prepared March 1992 by the Massachusetts Adolescent Violence Prevention Project, Bureau of Family and Community Health, Massachusetts Department of Public Health. Sources: MDPH Bureau of Health Statistics, Research and Evaluation; MDPH Bureau of Family and Community Health; MDPH Sentinel Injury Surveillance System; local hospitals; Boston and Lawrence newspapers.

YOUTH VIOLENCE IN LAWRENCE: THE PERPETRATORS AND THE VICTIMS

RAPE:

Over a three month period, an 18 year-old allegedly raped seven women on the street, some at gun-point, some at knife-point. Two victims were under 16 years old. In addition to raping his victims, he beat several of them and robbed all of them.

ASSAULT:

A 15 year old boy was home on a weekday afternoon. His mother's live-in boyfriend came home with a male friend after a long drinking bout. Both turned on the boy, kicking and punching him. The friend pulled a knife. Both were arrested and charged. A restraining order was obtained against the friend, but not agalnst the live-in boyfriend.

VANDALISM:

A 13 year-old was arrested in the act of vandalism in broad daylight. He had stopped attending school regularly, refused counseling, and was rarely at home. He hung around with a well-known gang, mostly older teenagers. When asked "Why weren't you in school?", he just shrugged.

ARSON:

An 18 year old youth had a long history of robbery. While on probation for an earlier crime, he was arrested for breaking and entering. He was out on bail and scheduled to appear in court when he was arrested for allegedly setting fire to a garage.

Prepared March 1992 by the Massachusetts Adolescent Violence Prevention Project, Bureau of Family and Community Health, Massachusetts Department of Public Health. Sources: Boston and Lawrence newspapers.

MAVPP
Massachusetts Department of Public Health
150 Tremont Street, 3rd Floor
Boston, MA 02111
(617) 727-1246

M A V P P

Massachusetts Adolescent Violence Prevention Project

Building Healthier Communities

On Youth Violence:

- Homicide is the third leading cause of injury death in the U.S. and Massachusetts. For black males ages 15-24 in Massachusetts, homicide is the leading cause of death. Homicide rates for Hispanics in Massachusetts are eight times that of non-Hispanic whites.
- Young adult males in poor urban areas are at greatest risk of being victims and perpetrators of violence.
- Friends, family, and acquaintances - not strangers - are more often the assailants.
- Most violence is the result of arguments between people who know one another, rather than muggings or drug deals.
- Violence is not only an individual problem but one which is deeply connected to poverty, urban crowding, lack of opportunity, alcohol and drug abuse, access to weapons and cultural values around violence.
- Violence is preventable.

"Violence is every bit a public health issue for me and my successors in this century as smallpox, tuberculosis and syphilis were for my predecessors in the last two centuries."

C. Everett Koop
Former U.S.Surgeon General

"We got to do something to stop kids killing each other"

Mother of slain teen

Teen Violence - A Call To Action

On television news. On the streets. In hospital emergency rooms, in churches, in community meetings and funeral homes, the question is asked, "What can be done to protect our youth?"

Traditional criminal justice methods have failed to stem the rising tide of adolescent violence. New responses are needed. While criminal justice can play a role in a comprehensive approach to reducing violence, the key must be **prevention**, not incarceration.

The Massachusetts Adolescent Violence Prevention Project (MAVPP) is a five year project funded by the federal Office of Maternal and Child Health. The MAVPP addresses the problem of violence prevention by working closely with local coalitions to empower community leaders to develop prevention plans and interventions that support healthier choices for youth-at-risk. MAVPP staff include a project director at the Massachusetts Department of Public Health and two community coordinators in the cities of Boston and Lawrence.

MAVPP-Building Healthier Communities

Unlike polio, there is no "vaccine" for violence. The root causes and social conditions which breed violence are long-term and complex. Working to create less violent, more healthy communities requires a long-range multidisciplinary, multicultural collaboration involving youth and adults, professionals and concerned citizens.

MAVPP staff are available to provide coordination, training, and consultation to assist community leaders in Boston and Lawrence to

- develop broad-based coalitions
- design comprehensive prevention plans
- implement violence prevention activities
- evaluate results

Each coalition will study its unique problems, assess community resources and create an action plan to determine where it will go. While other communities have implemented school-based violence prevention curricula, mentor and peer leadership programs, and targeted recreation activities for youth at risk, AVPP coalitions in Boston and Lawrence will decide for themselves which goals and activities are most relevant to their needs. MAVPP staff will assist coalition members in developing funding strategies for implementation of coalition activities.

COMMUNITY COALITIONS
PARTNERS IN VIOLENCE PREVENTION

We need your ideas, input, and energy to create better opportunities and healthier communities for Massachusetts youth. To learn more about local coalitions, contact

In Boston
Coalitions Coordinator
Boston Violence Prevention Project
1010 Mass. Ave., 2nd Floor
Boston, MA 02118
(617) 534-5196

In Lawrence
Ana Rodriquez
Lawrence Violence Prevention Project
Lawrence Psychological Center
488 Essex Street
Lawrence, MA 01840
(508) 685 1337

Homer Rahn Lopez
MAVPP Project Director
Massachusetts Department of Public Health
150 Tremont Street, 3rd Floor
Boston, MA 02111
(617) 727-1246

Together, we can make a difference.

The Massachusetts Adolescent Violence Prevention Project

PROBLEM:

The lives of many adolescents are characterized by a high degree of violence, injury, abuse and neglect. Adolescents confront violence and abuse in many environments traditionally viewed as safe havens; at home, among peers, at school and in the community. More than one-third of all injury deaths result from intentional injuries, and, of these, two of five are homicides. Homicide is the third leading cause of injury death in the U.S. and in Massachusetts. It is also the leading cause of death among Black males and females ages 15-34 in the United States, and among Massachusetts Black males and females, ages 15-19.

Public health practitioners have a responsibility to assist in preventing violence. In Massachusetts, the Department of Public Health has addressed issues related to violence through the Statewide Comprehensive Injury Prevention Program (SCIPP), the Women's Health Division, and more recently through collaborative efforts with the Medical Foundation's Violence Prevention Project. Although violence manifests itself in many forms, the primary focus of this proposal is to address interpersonal violence among adolescents.

Although information regarding the application and evaluation of violence prevention measures is scarce, the literature does suggest that this problem is most effectively addressed through a systems approach at the community level. With proper support, community members can define the problems and develop and implement an appropriate, community-based response. Presently, at the local level, a coordinated response to the issue of violence is absent. A greater coordination, collaboration and intensification of efforts is needed to effectively stem the rising tide of teen violence.

GOALS AND OBJECTIVES:

The Adolescent Violence Prevention Project will strengthen the capacity of communities to prevent adolescent interpersonal violence by: providing staff, technical assistance and training to two communities to assist them in an approach which includes (1) development of community-based coalitions; (2) development of comprehensive community-based prevention plans; and, (3) implementation and evaluation of interventions.

METHODOLOGY:

The etiology of violence among teens is complex, reflecting the risk-taking and power-testing typical of adolescence, as well as factors in the broader community associated with violence. Further, adolescents are increasingly exposed to criminogenic products such as drugs, alcohol and weapons. A coordinated response to adolescent violence prevention must be culturally sensitive, multi-disciplinary, and involve key leaders in health, human services, education, and government, as well as the community's social fabric and adolescents.

The unique role of public health practitioners includes

applying epidemiologic techniques to understand violence; use of surveillance and other data collection systems; identifying high-risk groups; developing and implementing strategies and effectively using the existing health care system. Critical to the success of the community response is the development of a coalition which reflects the diversity of the community and which works toward developing consensus on the problem and its solutions.

Two communities -- Boston and Lawrence -- have been targeted. These are cities in which the Massachusetts Department of Public Health has established links and provides funding and assistance to other programs. Each community's capacity to manage this project will be strengthened by the funding of a coordinator with expertise in community development, and technical assistance from SCIPP and other MDPH programs. Four phases of operation will be conducted:

- **COALITION DEVELOPMENT** - Involves enlisting key community leaders; training on issues of community development, collaboration, empowerment, violence prevention, and cultural sensitivity; development and implementation of a needs assessment.

- **PLANNING** - Based on the needs assessment and known effective models, an implementation plan with specific interventions and their evaluations will be developed. Securing funds for implementation will be the responsibility of the coalition with assistance from MDPH.

- **IMPLEMENTATION OF INTERVENTIONS** - May include educational, technological, legislative and/or regulatory strategies. MDPH staff will assist coalitions in selecting interventions with demonstrated effectiveness.

- **DISSEMINATION AND REPLICATION** - All aspects of the project will be described in a manual to be disseminated among state MCH directors, injury prevention programs, and other relevant organizations.

EVALUATION:

The evaluation will monitor development of the coalitions; assess the impact of interventions on injury incidence rates; include both process and outcome measures. Overall impact will be determined by the degree to which the objectives have been achieved, and changes in the health system problems.

Because the two communities selected for this project are involved in the Sentinel Injury Surveillance System (SISS) for Gunshot Wounds and Sharp Instrument Injuries (funded by the CDC), we will be able to utilize hospital and police data collected through the SISS for our outcome measures.

A guide to developing an effective program for the prevention of adolescent injuries will be produced, documenting the experiences of the two coalitions. This tool can be utilized by other communities for replication.

MASSACHUSETTS ADOLESCENT VIOLENCE PREVENTION PROJECT

YEAR ONE MAVPP PROGRESS

(October 1990 - September 1991)

MAVPP ADVISORY BOARD:

- Convened an Advisory Board to the overall project to provide leadership advice and necessary access to key community leaders and institutions to ensure the success of the Community Coalitions' work. Board members are asked to give feedback, help strategize and facilitate ongoing project development. Board members are also asked to be available to Project staff for consultation outside of the quarterly meetings and may be asked to meet with or provide training to the Coalition. Meetings were held in May and September, 1991 in Boston.

LAWRENCE VIOLENCE PREVENTION COALITION:

- Hired Coordinator.

- Conducted intensive key informant interviews with government and community leaders on the issue of violence prevention.

- Convened and presently maintaining a community-based violence prevention coalition.

- Provided technical assistance and presently providing coalition development trainings to the violence prevention coalition.

- Planned a violence prevention awareness week in conjunction with the violence prevention coalition and the City of Lawrence, including community-wide events. (To be held October 27 - November 2, 1991)

BOSTON VIOLENCE PREVENTION COMMUNITY CORE GROUP AND COMMITTEE ON VIOLENCE:

- Hired Coordinator.

- Conducted intensive key informant interviews and focus group discussions with government, community leaders, and constituents on the issue of violence prevention.

- Identified and have agreed to work as partners with over ten recently-formed violence prevention or substance abuse prevention coalitions.

- Convened and presently maintaining a community-based violence prevention community core group. Group includes community residents and leaders in the Roxbury, Dorchester and Mattapan neighborhoods.

- Presently providing technical assistance to all violence prevention and substance abuse prevention coalitions to draft a strategic plan for collaborating to identify gaps, and to develop and pool resources for delivery of more comphresive violence prevention initiatives.

- Cofacilitate the Boston Committee on Violence with United Way and Boston Bar Association. Committee includes city officials, representatives of foundations, universities, grant funded programs and business leaders.

Rev. 12/91

MASSACHUSETTS ADOLESCENT VIOLENCE PREVENTION PROJECT

YEAR TWO PROGRESS

(October 1991 - December 1991)

MAVPP ADVISORY BOARD

- Meeting held in Lawrence in December, 1991.

LAWRENCE VIOLENCE PREVENTION COALITION:

- Conducted violence prevention awareness week which included school-based programs, a press conference kick-off by the Mayor and Department of Public Health officials, parent discussion group, candlelight vigil for victims of violence, teen poster contest, and private showing of "Boyz 'n The Hood with discussion lead by Gang Peace.

- Convened the Violence Prevention Awareness Summit as the culmingation of violence prevention awareness week. Facilitated sixteen buzz groups, half in Spanish, around the issue of violence in the community and collected recommendations for action.

- Drafted a community-based Violence Prevention Action Plan as a product of the Lawrence Summit.

- Presently working with the violence prevention coalition to determine the action plan priorities and develop funding for the implementation and evaluation of their interventions.

BOSTON VIOLENCE PREVENTION COMMUNITY CORE GROUP AND COMMITTEE ON VIOLENCE:

- Continued development of the Core Group and the Committee through meetings, trainings and technical assistance.

- Cosponsored conference entitled "Building a Coalition to Support The Next Generation: Training, Resources and Programs That Work." November 15, 1991.

- Termination of contract with Coalition Coordinator. Recruitment of new Coordinator begun.

- Organized training on fund raising with Mass. Health Research Institute staff, held December 6, 1991.

- Presentation at the Unitarian Universalist Conference, October 26, 1991.

- Began planning for March conference "Taking It To The Streets," co-sponsored with the Women's Health Division. This conference will look at the relationship between violence in the home (spouse abuse and battering, child abuse and neglect) and violence seen on the streets.

OTHER:

- Participation in the development of the newly funded state Office of Violence Prevention, to be housed at the Department of Public Health in January, 1992.

- Request for presentation at the University of Pittsburgh 1992 Public Health Social Work Institute, April, 1992.

- Request for presentation at the Rocky Mountain Injury Prevention Cluster meeting, February, 1992.

Profile of the Lawrence Coalition on Violence Prevention

Lead Agency: Lawrence Psychological Counseling Center
488 Essex Street
Lawrence MA, 01840

Coalition Coordinator: Ana Rodriguez

Date Initiated: June 13, 1991

Coalition Composition:
Blue Crusaders
Teen Pregency Coalition
Lawrence Police Department
Mayor's Office
Latin American Professions
Lawrence Youth Commission
Lawrence Elders Council
Lawrence Residents
Merrimack Valley Prevention Network
Lawrence Community Partnership
Juvenile Diversion Program
Lawrence Eagle Tribune
State Attorney Generals Office
YMCA
YWCA

Activities:

-June 27, 1991. Training and presentation to the Lawrence Coalition re: Overview of Violence Prevention and homicide and assault statistics and closing for commitments to participate upon the coalition.

-October 27 - November 2, 1991. Planned a violence prevention awareness week in conjunction with the violence prevention coalition and the City of Lawrence, including community-wide events.

- Conducted violence prevention awareness week which included school-based programs, a press conference kick-off by the Mayor and Department of Public Health officials, parent discussion group, candlelight vigil for victims of violence, teen poster contest, and private showing of "Boyz 'n The Hood with discussion lead by Gang Peace.

- Convened the Violence Prevention Awareness Summit as the culmination of violence prevention awareness week. Facilitated sixteen buzz groups, half in Spanish, around the issue of violence in the community and collected recommendations for action.

- Drafted a community-based Violence Prevention Action Plan as a product of the Lawrence Summit.

-Presently working with the violence prevention coalition to determine the action plan priorities and develop funding for the implementation and evaluation of their interventions.

Profile of the Boston Coalition on Violence Prevention

Lead Agency: Boston Violence Prevention Project
1010 Mass Ave
Boston MA, 02118

Coalition Coordinator: ~~To Be Determined~~
Deborah Cox

Date Initiated: September 5, 1991

Coalition Composition:
Boston Police Department
Boston Community Policing Department
Roxbury Youthworks
Action for Boston Community Development
Department of Health and Hospitals - City of Boston
Boston Residents
Alianza Hispana
Citizens for Safety
Youth Outreach Workers
State Attorney Generals Office
Neighborhood Justice Network

Activities:

-September 05, 1991. Meeting with a core group of service providers and constituents re:ground work for the formation of a Boston Violence Prevention Coalition.

• Continued development of the Core Group and the Committee through meetings, trainings and technical assistance.

-November 15, 1991. Cosponsored conference entitled "Building a Coalition to Support The Next Generation: Training, Resources and Programs That Work."

-December 6, 1991. Organized training on fund raising with Mass. Health Research Institute staff.

June

-Presently planning for ~~March~~ '92 conference "Taking It To The ~~Streets~~," co-sponsored with the Women's Health Division. This conference will look at the relationship between violence in the home (spouse abuse and battering, child abuse and neglect) and violence seen on the streets.

MASSACHUSETTS OFFICE OF VIOLENCE PREVENTION

The Massachusetts Office of Violence Prevention is being established in the Massachusetts Department of Public Health to coordinate and expand violence prevention programs and activities designed to reduce interpersonal violence and intentional injury. The primary objectives of the office include:

- Coordinate and strengthen existing violence prevention activities within the Department and other state agencies.
- Promote and support the development of comprehensive community-based violence prevention initiatives within Massachusetts cities and towns.
- Increase the dissemination of information on national and local violence prevention efforts to the public, to schools, public health professionals, health care providers, public safety, professionals, and others.
- Increase the capacity of the Department and other state agencies to address violence and intentional injury through integration into existing programs and grant writing activities.

The Director will work with a Steering Committee of staff from the Department and an Advisory Committee of representatives from the public and private sectors to accomplish these objectives. The Director will also provide leadership for all prevention activities within the Department of Public Health by convening and coordinating activities of the various Department programs across the state.

The Department Steering Committee will be formed to familiarize the Director with existing and proposed activities emanating from the various programs in the Department, in an effort to strengthen these initiatives and coordinate ongoing activities at the state and community levels. This committee will be headed by the Director of the Office of Violence Prevention and meet monthly.

Staff from the Department will include representatives from the Bureau of Substance Abuse Prevention, Division of Women's Health, Division of Elderly Health, Bureau of Health Statistics, Research and Evaluation, Statewide Comprehensive Injury Prevention Program, Adolescent Violence Prevention Project, Emergency Medical Services, and Division of Early Childhood.

An Advisory Committee to the Office of Violence Prevention will be formed to provide advice to the Department and facilitate office activities. The Advisory Committee will meet three times a year and consist of approximately 15 people representing a range of violence-related issues (e.g., domestic violence, adolescent interpersonal violence, gang violence, child abuse, elder abuse, and others) and professions (e.g., education, health and human services, public safety, youth services and others). Public and private agencies from all regions of the state will be included as well as representatives of diverse racial, cultural and linguistic groups.

At these meetings, the Director will update the members on accomplishments, problems, and activities. Committee members will be asked to help prioritize activities, give feedback and help strategize and facilitate ongoing project development. Members may also be asked to be available to the Director for consultation outside of the meetings.

A Student Anti-Violence Council will be formed to advise the Office of Violence Prevention and Department regarding community and school-based initiatives involving youth. Members for this Council will be selected from high risk communities across the state.

Massachusetts Department of Public Health

Violence Prevention Initiatives

Women's Health Division. The Women's Health Division provides a number of services designed to decrease morbidity and mortality and to promote knowledge and well-being among women in Massachusetts. The Division places particular emphasis on assessing health risks and developing services for low-income women, women of color, and refugee and immigrant women. Currently, the Division is involved in a number of violence prevention activities including the following: contracting, program monitoring and technical assistance to 16 statewide rape crisis centers; collecting and reporting statewide incidence data on sexual assault; the Resource Center for the Prevention of Family Violence and Sexual Abuse - books, films, curricula, training manuals and violence prevention resources for schools; certification of batterer treatment programs; member of the Asian Women's Task Force on Domestic Violence, the Women of Color Coalition, the Sexual Assault and AIDS Committee, and the Health Care Committee on Domestic Violence. Contact: Candace Waldron, 727-7222

Bureau of Substance Abuse Services. The Bureau supports a number of programs which help community groups join together to find effective ways to reduce violence-related activity caused by illegal drugs and alcohol. These include eight Regional Primary Prevention Centers, 46 youth intervention programs, 22 Community Partnership Grants and services for drug offenders. In addition, the Bureau funds a full time position for a violence prevention coordinator at the Medical Foundation and has sponsored trainings on substance abuse and violence in women's lives for substance abuse providers, rape crisis centers and battered women's shelter staff. Contact: Dennis McCarthy, 727-1960

Division of Elderly Health. The Senior Crime and Violence Prevention Program which receives partial funding from the Boston Commission on Affairs of the Elderly, is a collaborative project of the Department and the Neighborhood Justice Network. The Program organizes older adults in Boston to reduce crime in their neighborhoods and teaches elders how to prevent crimes and start their own senior crime watch groups. To date, the project has organized nine Senior Crime and Violence Prevention groups including an intergenerational and Hispanic group, as well as two Senior Alert Conferences. Contact: Alan Balsam, 727-2662

Division of Early Childhood. In addition to the operation of a range of service programs, this Division has the prime responsibility for the coordination of early intervention services to very young children. Carrying out the mission of Part H, Infant and Toddler programs of P.L. 99-457, the Division has developed a statewide, comprehensive, interagency, multidisciplinary system of early intervention services to infants and toddlers at established, biological or environmental risk of developmental disability or developmental delay. Among the direct services are Early Intervention Programs, Failure to Thrive Programs and the High Risk Infant Program. The Early Intervention programs located across the state in 43 service sites consist of multidisciplinary teams providing social, educational and therapeutic services to children and families in their homes and in community based programs serving young children ages birth to three who are at

established, biological and environmental risk for developmental disabilities or delay. These early childhood programs which provide parenting skills, child development assessment and family supports prevent child abuse and neglect and its consequences. Contact: Karl Kastorf, 727-5090

Statewide Comprehensive Injury Prevention Program. Created in 1979 to address the problem of injuries in Massachusetts, SCIPP conducts research into the cause of injuries, develops strategies and materials and provides training and technical assistance to help integrate injury prevention into ongoing health and human services programs, monitors and reports injury-related data, and collects and provides print and audio visual resources for local programs. Staff are currently involved in an effort coordinated by the Massachusetts Committee on Children and Youth to determine the feasibility of a child fatality review system, and are developing a paper on the cost of injury in Massachusetts. Previous reports which document the incidence of violence-related deaths and injuries include "Injuries In Massachusetts: A Status Report," Injury In Massachusetts: A Data Source Book," and the Massachusetts Child Death Study.
Contact: Cindy Rodgers, 727-1246

Adolescent Violence Prevention Project. The goal of this project is to strengthen the capacity of Lawrence and the Roxbury, Dorchester and Mattapan neighborhoods of Boston to prevent adolescent interpersonal violence by providing staff, technical assistance and training. This five-year federally funded project is working with community leaders to develop comprehensive community-based coalitions, which will create, implement and evaluate prevention strategies. Contact: Homer Rahn-Lopez, 727-1246

Office of Disability Prevention. This Office is a center for activities aimed at reducing the frequency of primary and secondary disability within the state. The Office has convened an Advisory Committee which has helped to develop a state disability prevention plan called Maximizing Health. A variety of community-based projects have been carried out by the Office. A new project, based on an analysis of data from Carney Hospital, will focus on violence prevention in the Dorchester community. Contact: Laura Rauscher, 727-5812

Bureau of Health Statistics, Research and Evaluation, Sentinel Injury Surveillance System (SISS). DPH received funding in FY90 for a three-year project to develop a surveillance system for fatal and non-fatal gunshot wounds and stabbings. The Sentinel Injury Surveillance System is an emergency department-based reporting system with 24 hospitals currently participating. Recruitment has been geographically clustered to achieve population-based surveillance in five urban areas: Boston, Springfield, Lawrence, Brockton, and New Bedford. The system collects victim demographics, hospital information (mode of arrival and disposition), and information on the precipitating incident (intention, victim/offender relationship, substance use, location, etc.).

SISS data have increased interest in violence prevention resulting in development of a brochure on violence prevention to distribute in the emergency department waiting room and funding for a victim services program. Additionally, SISS has offered CME workshops on violence prevention which have been attended by 140 emergency department personnel. Contact: Kathy Barber, 727-8960

GETTING STARTED: AN ACTION PLAN

As you begin to develop a violence prevention action plan, it is important to consider your agency's mission, and to link your plan to that mission. These forms can be used to help you plan how your agency, department, etc., can address the goal you have set.

I. Goal Statement: Because reaching a violence prevention goal is a long-term process, write below -- in terms that are clear, understandable, and agreeable to all members of your "team" -- a goal that would be attainable in five years.

FIVE-YEAR GOAL

_____

_____

_____

_____

In order to meet a five-year goal, one must determine what would need to be accomplished during each year. What would be the first-year goal of your five-year plan?

FIRST-YEAR GOAL:

_____

_____

_____

_____

II. Objectives: Specific objectives describe outcomes that will help you determine how successfully you are reaching you goal. List in the space provided four or five objectives you plan to accomplish in the first year. State your objectives in specific, measurable terms.

First-Year Objectives

1. _____

_____

2. _____

_____

3. _____

_____

4. _____

_____

5. _____

_____

III. Helping and Hindering Forces:

Identify below the forces that will help or hinder the achievement of your goals and objectives. Helping forces are anything that will assist in the completion of your goal: people, funding, community support, coalitions, political climate. Hindering forces are whatever makes reaching your goal difficult: people, laws, funding, community opposition, turf issues, etc. Be creative in thinking about what you already have going for you and what you may be able to tap into. Be specific about what you see getting in your way.

HELPING FORCES	HINDERING FORCES

IV. Strategy Planning:

Strategies are ways to facilitate the attainment of your objectives. Think of ways to reduce the negatives and strengthen the positives. In this step you identify ways to reach your goal. On the attached pages are examples of strategies you may wish to consider.

List your own strategies below.

V. Work Plan:

On the form below, list an objective. A separate page is provided for each objective. Identify the activities needed to implement the strategies to achieve each objective, who will take responsibility for the completion of the activity, what resources will be required, and when the activity will be completed.

Objective 1 _____

TASKS	PERSON(S) RESPONSIBLE	BY WHEN?	RESOURCES REQUIRED

V. Work Plan: (Continued)

Objective 3 _____

TASKS	PERSON(S) RESPONSIBLE	BY WHEN?	RESOURCES REQUIRED

V. Work Plan: (Continued)

Objective 2 _____

TASKS	PERSON(S) RESPONSIBLE	BY WHEN?	RESOURCES REQUIRED

VI. Evaluation:

Keeping track of your program's activities will help you determine how well you are meeting your objectives. Unanticipated environmental factors may affect your progress. Plan to meet periodically with your team to assess how things are going and make adjustments in programming and management.

1. Baseline Data: In assessing progress, it is helpful to know what has been accomplished at the outset. List the kinds of data you will need and how you will obtain it. The needs assessment survey you completed with your application to become a training center and YRBS data can provide some of this information.

2. Progress Reports: Describe how you will gather and record information about what is being accomplished. How will you use this information to modify or refine your plans?

THE IMPORTANCE OF COALITIONS AND NETWORKS

While individuals can have tremendous impact, broad-based networks and coalitions can exert great influence on injury prevention policy and programming. The health professional can either mobilize and coordinate networks of existing organizations or save time and effort by having such organizations serve as intermediaries to deliver messages to their constituents on behalf of health professionals. Either way, health professionals will need to learn how to build and nurture networks. Possible coalition or network members include the following:

1. Health professions: medicine, nursing, public health; in academic, institutional, and state and local settings health professionals can become early collaborators.
2. Civic organizations: civic planners, community groups, block captains, and churches can provide an inside view of the targeted population.
3. Legal community: product liability can be a powerful incentive to bring about changes in safety of product design.
4. Business organizations: insurance companies may be willing to offer incentives to individuals who purchase safer products (e.g., cars equipped with air bags).
5. Industry/technology: both chief executive officers and engineers can be approached regarding changes in product design.
6. Consumer groups: Public Interest Research Groups (PIRGS) and the Center for Auto Safety, for example, can help implement and encourage legislative change (e.g., mandated use of child safety seats and use of child-resistant closures for children's aspirin).
7. Public safety: regulatory and criminal justice professionals may be involved in enforcing laws and regulations; they may also be a data resource.
8. Advocacy groups: such groups as the Children's Defense Fund, Mothers Against Drunk Driving (MADD), and the Advocacy Institute usually have a constituency in place, or they can assist in generating one around a specific issue.
9. Legislatures: national, state and local legislatures can pass laws to reduce injuries as well as appropriate funds for injury prevention and research.
10. Educational institutions: public and private schools, Head Start, Women Infants and Children (WIC) programs can help reach younger audiences.
11. Mass media: newspapers, radio, and television can be asked to publicize a specific injury problem and the legislation targeted at preventing it.

Community-Based Prevention

Source: Prevention Resource Center

Section L

Legislators and Committees

NEW! Updated to March 6, 1992!

1992 Massachusetts State Legislators

Senate

	Room	Tel. 722-
Amorello, Matthew J. (R-Grafton)	520	1485
Barrett, Michael J. (D-Cambridge)	405	1280
Berry, Frederick E. (D-Peabody)	511	1410
Bertonazzi, Louis P. (D-Milford)	320	1420
Birmingham, Thomas F. (D-Chelsea)	213C	1650
Bovenni, Walter J. (D-Lynn)	333	1350
Buell, Robert C. (R-Boxford)	321	1600
Bulger, William M. (D-South Boston)	330	1500
Burke, Edward L. (D-Framingham)	413C	1640
Chase, Arthur E. (R-Worcester)	518	1544
Creedon, Michael C. (D-Brockton)	413E	1200
Dunn, Martin J. (D-Holyoke)	416C	1415
Durand, Robert A. (D-Marlborough)	413B	1120
Harold, Paul D. (D-Quincy)	413D	1494
Havern, III, Robert A. (D-Arlington)	506	1432
Hedlund, Robert L. (R-Weymouth)	416B	1646
Hicks, Lucile P. (R-Wayland)	413G	1572
Jajuga, James P. (D-Methuen)	216	1605
Keating, William R. (D-Sharon)	424	1222
Kirby, Edward P. (R-Whitman)	413H	1330
Lane, Christopher M. (R-Medfield)	507	1348
Lees, Brian P. (R-E. Longmeadow)	313	1291
Locke, David H. (R-Sherborn)	306	1555
LoPresti, Jr., Michael (D-East Boston)	413A	1634
MacLean, Jr., William Q. (D-Fairhaven)	513	1440
McGovern, Patricia (D-Lawrence)	212	1481
Melconian, Linda J. (D-Springfield)	213B	1660
Norton, Thomas C. (D-Fall River)	312	1114
Owens, Bill (D-Mattapan)	218	1673
Pines, Lois G. (D-Newton)	421	1639
Rauschenbach, Henri S. (R-Brewster)	413F	1570
Rosenberg, Stanley C. (D-Amherst)	413F	1532
Shannon, Charles E. (R-Winchester)	504	1578
Sullivan, Nancy Achin (R-Lowell)	517C	1630
Swift, Jane M. (R-North Adams)	407	1625
Tisei, Richard R. (R-Wakefield)	416A	1206
Wall, Jr., Erving H. (R-Taunton)	314	1551
Wetmore, Robert D. (D-Barre)	409	1540
White, W. Paul (D-Dorchester)	309	1643

House of Representatives

Angelo, Steven (D-Saugus)	473F	2210
Antonioni, Robert A. (D-Leominster)	166	2900
Binienda, Sr., John J. (D-Worcester)	540	2090
Blanchette, Kevin P. (D-Lawrence)	39	2240
Blute, Peter I. (R-Shrewsbury)	548	2802
Bosley, Daniel E. (D-North Adams)	39	2240
Bradford, John C. (R-Rochester)	549	2489
Brenton, Marianne W. (R-Burlington)	443	2460
Brett, James T. (D-Boston)	42	2370
Brewer, Stephen M. (D-Barre)	43	2030
Buell, Carmen D. (D-Greenfield)	130	2130
Bump, Suzanne M. (D-Braintree)	43	2030
Businger, John A. (D-Brookline)	463	2915
Cabral, Antonio F. (D-New Bedford)	540	2090
Cahir, Thomas S. (D-Bourne)	446	2460
Cangiamila, Brion M. (R-Billerica)	35	2320
Caron, Paul E. (D-Springfield)	473B	2230
Casey, Paul C. (D-Winchester)	167	2692
Cass, William F. (D-Wakefield)	130	2130
Catjakis, Athan (D-Springfield)	130	2130
Ciampa, Vincent P. (D-Somerville)	473B	2230
Clancy, Jr., Edward J. (D-Lynn)	138	2396
Clark, Jr., Forrester "Tim" (R-Hamilton)	167	2692
Cleven, Carol (R-Chelmsford)	36	2552
Cohen, David B. (D-Newton)	238	2380
Collaro, Andrew (D-Worcester)	167F	2692
Connolly, Edward G. (D-Everett)	20	2410
Constantino, Jr., William (R-Clinton)	541B	2976
Coon, Gary M. (R-Andover)	146	2575
Correia, Robert (D-Fall River)	121	2810
Cox, John F. (D-Lowell)	20	2410
Cruz, John F. (R-W. Bridgewater)	38	2470
Decas, Charles N. (R-Wareham)	489	2017
DeFilippi, Walter A. (R-W. Springfield)	124	2100
DeLeo, Robert A. (D-Winthrop)	146	2575
Dempsey, Brian S. (D-Haverhill)	146	2575
DiMasi, Salvatore (D-Boston)	138	2396
Donovan, Carol A. (D-Woburn)	473G	2070
Doran, Stephen W. (D-Lexington)	162	2040
Draisen, Marc D. (D-Roslindale)	156	2225
Driscoll, John R. (R-Northbridge)	146	2078
Evans, Nancy (R-Wayland)	443	2460
Finneran, Thomas M. (D-Mattapan)	243	2990
Fitzgerald, Kevin W. (D-Boston)	128	2250
Flaherty, Charles F. (D-Cambridge)	356	2500
Forman, Peter (R-Plymouth)	124	2100
Fox, Gloria L. (D-Roxbury)	167	2692
Galvin, William C. (D-Canton)	540	2090
Gannon, Paul J. (D-S. Boston)	26	2080
Gardner, Barbara (D-Holliston)	473G	2070
Gately, David F. (I-Waltham)	156	2235
Gibson, Mary Jane (D-Belmont)	167H	2692
Giglio, Anthony P. (D-Medford)	33	2060
Giordano, Larry F. (D-Methuen)	166	2900
Giodis, Jr., William J. (D-Worcester)	236	2430
Goguen, Emile J. (D-Fitchburg)	134	2400
Gonsalves, Leonard (D-Dartmouth)	33	2060
Gray, Barbara E. (D-Framingham)	237	2380
Haley, Paul R. (D-Weymouth)	540	2090
Hall, Geoffrey D. (D-Westford)	473G	2070
Harkins, Lida E. (D-Needham)	473B	2230
Hawke, Robert D. (R-Gardner)	146	2575
Hayward, Jeffery J. (D-Lynn)	236	2430
Healy, Jonathan L. (R-Charlemont)	33	2060
Henry, James R. (R-Beverly)	42	2370
Hermann, Joseph N. (D-North Andover)	236	2430
Herren, Albert (D-Fall River)	540	2090
Hildt, Barbara (D-Amesbury)	22	2140
Hodgkins, Christopher J. (D-Lee)	34	2320
Honan, Kevin G. (D-Allston)	472	2120
Hornblower, Augusta (R-Groton)	541B	2480
Howarth, Robert L. (R-Springfield)	254	2220
Hynes, Frank M. (D-Marshfield)	467	2210
Jehlen, Patricia D. (D-Somerville)	134	2400
Jordan, Jr., Raymond A. (D-Springfield)	38	2470
Kafka, Louis L. (D-Sharon)	443	2460

Representatives	Room	Tel. 722-
Karol, Stephen J. (D-Attleboro)	445	2960
Kehoe, Marie-Louise (D-Dedham)	167C	2692
Kelly, Shaun P. (R-Dalton)	473B	2120
Kennedy, Thomas P. (D-Brockton)	146	2575
Kerans, Sally P. (D-Danvers)	39	2240
Klimm, John C. (D-Barnstable)	146	2575
Knapik, Michael R. (R-Westfield)	443	2460
Koczera, Robert M. (D-New Bedford)	236	2430
Kollios, Paul (D-Millbury)	22	2291
Kraus, Robert (R-Kingston)	472	2120
Krekorian, Robert C. (R-Reading)	540	2090
Lambert, Jr., Edward M. (D-Fall River)	22	2140
Landers, III, Patrick F. (D-Palmer)	146	2575
Larkin, Peter J. (D-Pittsfield)	43	2030
Lawless, Robert C. (D-Orleans)	138	2396
LeLacheur, Edward A. (D-Lowell)	146	2582
Lewis, Jacqueline (R-Bridgewater)	237	2305
Lionett, David J. (R-Worcester)	237	2426
Magnani, David P. (D-Framingham)	162	2040
Mandile, Anthony M. (D-Waltham)	171	2783
Mann, Charles W. (R-Hanson)	489B	2017
Manning, M. Joseph (D-Milton)	167	2692
Mara, Francis G. (D-Brockton)	254	2220
Mariano, Ronald (D-Quincy)	473F	2210
Marsh, Robert H. (R-Wellesley)	124	2100
Marzilli, Jim (D-Arlington)	236	2430
McDonough, John E. (D-Boston)	146	2575
McIntyre, Joseph B. (D-New Bedford)	166	2900
McKenna, Mary Jane (R-Holden)	124	2100
McNeil, John C. (D-Malden)	156	2256
Menard, Joan M. (D-Somerset)	370	2300
Merced, Nelson (D-Boston)	36	2552
Micell, James R. (D-Wilmington)	237	2745
Moore, Richard T. (D-Uxbridge)	26	2080
Morrissey, Michael W. (D-Quincy)	477	2263
Murray, Mary Jeanette (R-Cohasset)	134	2400
Nagle, Jr., William P. (D-Northampton)	146	2575
O'Brien, Janet W. (D-Hanover)	134	2400
O'Brien, Shannon P. (D-Easthampton)	33	2060
O'Sullivan, Kevin (D-Worcester)	155	2883
Owens-Hicks, Shirley (D-Boston)	279	2010
Pacheco, Marc R. (D-Taunton)	472	2120
Palumbo, Thomas G. (R-Newbury)	473F	2210
Parente, Marie J. (D-Milford)	167B	2692
Peters, David M. (R-Charlton)	443	2460
Petersen, Douglas W. (D-Marblehead)	473F	221[illegible]
Petrolati, Thomas M. (D-Ludlow)	26	20[illegible]
Poirier, Kevin (R-N. Attleborough)	541B	2100
Ranieri, Daniel J. (D-Bellingham)	134	2400
Reinstein, William G. (D-Revere)	237	2337
Resor, Pamela P. (D-Acton)	33	2060
Rogeness, Mary (R-Longmeadow)	124	2100
Rohan, Robert J. (D-Holyoke)	251	2700
Roosevelt, Mark (D-Boston)	473G	2070
Rourke, Susan F. (D-Lowell)	254	2220
Ruane, J. Michael (D-Salem)	278	2010
Rushing, Byron (D-Boston)	134	2400
Scaccia, Angelo M. (D-Boston)	236	2430
Schur, Susan D. (D-Newton)	275	2676
Scibelli, Anthony M. (D-Springfield)	237	2380
Serra, Emanuel G. (D-Boston)	481	2255
Stoddart, Douglas W. (R-Natick)	39	2240
Sullivan, Gregory W. (D-Norwood)	42	2370
Sullivan, Michael J. (R-Abington)	43	2030
Tarr, Bruce E. (R-Gloucester)	26	2080
Teague, III, Edward B. (R-Yarmouth)	237	2306
Thompson, Alvin E. (D-Cambridge)	171	2783
Tobin, A. Stephen (D-Quincy)	138	2396
Tolman, Warren E. (D-Watertown)	146	2575
Tracy, Susan (D-Brighton)	33	2060
Travis, Philip (D-Rehoboth)	33	2060
Turkington, Eric (D-Falmouth)	138	2396
Vallanti, Daniel J. (D-Marlboro)	540	2090
Vellucci, Peter A. (D-Cambridge)	167D	2692
Vernon, William B. (R-Mansfield)	549B	2488
Voke, Richard A. (D-Chelsea)	343	26[illegible]
Wagner, Joseph F. (D-Chicopee)	443	[illegible]
Walrath, Patricia A. (D-Stow)	237	[illegible]7
Walsh, Marian (D-Boston)	138	2396
Walsh, Michael P. (D-Agawam)	472	2120
Walsh, Thomas P. (D-Peabody)	254	[illegible]
Woodward, Francis H. (D-Walpole)	478	

Committees

Banks & Banking	42	2370
Bills in Third Reading, House	20	2410
Bills in Third Reading, Senate	200	1470
Commerce & Labor	43	2030
Counties	33	2060
Criminal Justice	166	2900
Education	473G	2070
Election Laws	26	2080
Energy	540	2090
Ethics, House	163	2040
Ethics, Senate	216	1551
Federal Financial Assistance	156	2256
Government Regulations	472	2120
Health Care	130	2130
Housing & Urban Development	38	2470
Human Services & Elderly Affairs	22	2140
Insurance	254	2220
Judiciary (House staff)	138	2396
Judiciary (Senate staff)	219	1654
Local Affairs	134	2400
Natural Resources	473F	2210
Personnel & Administration	146	2582
Post Audit & Oversight, House	146	2575
Post Audit & Oversight, Senate	216	1252
Public Safety	473B	2230
Public Service	40	2240
Rules, House	167	2692
Rules, Senate	431	1520
State Administration	34	2320
Steering & Policy, Senate	413B	1222
Taxation	236	2460
Transportation	443	2460
Way & Means, House	238	2700
Ways & Means, Senate	212	1481
Information Offices:		
House Clerk	145	2356
House Lobby & Information	350	2000
Senate Clerk	208	1276
Senate Lobby & Information	300	1455
Legislative Documents Room	428	2860
Hearing Impaired Info (TTY/TTD)	237	2659
State Bookstore	116	727-2834
State Library (Open M-F 11 AM- 5 PM)	341	727-2590
Citizens' Information Service		727-7030
Outside Boston, toll-free		1-800-392-6090

All legislative telephones are area code (617) and begin with the exchange 722-. Mail address for all legislators and committees:
State House, Boston, MA 02133

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JOINT COMMITTEE ON CRIMINAL JUSTICE

Room 166 Tel: 2900

It shall be the duty of the committee on Criminal Justice to consider all matters concerning crimes, penalties and sentencing and such other matters as may be referred.

Sen.	Harold	of Norfolk
	Keating	of Norfolk and Bristol
	White	of Second Suffolk and Norfolk
	Birmingham	of Suffolk, Essex and Middlesex
	Kirby	of Plymouth and Barnstable
	Tisei	of Third Middlesex
Rep.	McIntyre	of New Bedford
	Antonioni	of Leominster
	Giordano	of Methuen
	_____	of _____
	Tobin	of Quincy
	Gannon	of Boston
	Haley	of Weymouth
	Lawless	of Orleans
	Driscoll	of Northbridge
	Krekorian	of Reading
	Tarr	of Gloucester

JOINT COMMITTEE ON THE JUDICIARY

House Staff: Room 138 Tel: 2396
Senate Staff: Room 219 Tel: 1654

It shall be the duty of the committee on the Judiciary to consider all matters pertaining to the judiciary, including the recall of judges, the salaries of judges, court clerks and court officers of the various courts, probation officers, juries and jury duty (but excluding the retirement of judges and all other court personnel) and such other matters as may be referred.

Sen.	LoPresti	of Suffolk and Middlesex
	Melconian	of First Hampden
	White	of Second Suffolk and Norfolk
	Birmingham	of Suffolk, Essex and Middlesex
	Locke	of Norfolk, Bristol and Middlesex
	Shannon	of Second Middlesex
Rep.	DiMasi	of Boston
	Walsh	of Boston
	Manning	of Milton
	Antonioni	of Leominster
	Turkington	of Falmouth
	Giordano	of Methuen
	Clancy	of Lynn
	Lawless	of Orleans
	Vernon	of Mansfield
	Stoddart	of Natick
	Cruz	of West Bridgewater

JOINT COMMITTEE ON PUBLIC SAFETY

Room 473B Tel: 2230

It shall be the duty of the committee on Public Safety to consider all matters concerning the safety of the public, including civil defense, firearms and gun control, fire laws, motor vehicle laws and such other matters as may be referred.

Sen.	Jajuga	of Third Essex
	MacLean	of Second Bristol
	Norton	of First Bristol
	Owens	of Second Suffolk
	Buell	of First Essex and Middlesex
	Hedlund	of Norfolk and Plymouth
Rep.	Caron	of Springfield
	Mandile	of Waltham
	Binienda	of Worcester
	Ciampa	of Somerville
	Harkins	of Needham
	McNeil	of Malden
	Goguen	of Fitchburg
	Jehlen	of Somerville
	Peters	of Charlton
	Krekorian	of Reading
	Kelly	of Dalton

HOUSE WAYS AND MEANS

Room 237 Tel: 2380

It shall be the duty of the committee on Ways and Means to consider all legislation affecting the finances of the Commonwealth and such other matters as may be referred thereto.

Rep.	Finneran	of Boston
	Kennedy	of Brockton
	Cohen	of Newton
	Schur	of Newton
	Gibson	of Belmont
	Scibelli	of Springfield
	Manning	of Milton
	Gray	of Framingham
	Ruane	of Salem
	Rohan	of Holyoke
	Moore	of Uxbridge
	Rourke	of Lowell
	Walrath	of Stow
	Reinstein	of Revere
	McDonough	of Boston
	Hildt	of Amesbury
	Catjakis	of Springfield
	Fox	of Boston
	Magnani	of Framingham
	Landers	of Palmer
	O'Sullivan	of Worcester
	Rosenberg	of Amherst
	Sullivan	of Norwood
	_____	of _____
	Poirier	of North Attleborough
	Constantino	of Clinton
	Decas	of Wareham
	Bradford	of Rochester
	Blute	of Shrewsbury
	Lewis	of Bridgewater
	Teague	of Yarmouth

SENATE COMMITTEE ON WAYS AND MEANS

Room 212 Tel: 722-1481

It shall be the duty of the committee on Ways and Means to consider all matters relating to the finances of the Commonwealth and such other matters as may be referred thereto.

Sen. McGovern	of Second Essex and Middlesex
Wetmore	of Worcester, Franklin, Hampden and Hampshire
Melconian	of First Hampden
Burke	of Middlesex, Norfolk and Worcester
Bertonazzi	of Worcester and Norfolk
Pines	of Middlesex and Norfolk
LoPresti	of Suffolk and Middlesex
Keating	of Norfolk and Bristol
Creedon	of Plymouth
Berry	of Second Essex
Durand	of Middlesex and Worcester
Rauschenbach	of Cape and Islands
Tisei	of Third Middlesex
Chase	of Worcester
Swift	of Berkshire, Franklin, Hampden and Hampshire
Amorello	of First Worcester and Middlesex
Hicks	of Fifth Middlesex